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No. 92-6281

IN THE
Supreme Court of the United States
OCTOBER TERM, 1993

ROBERT P. HAGEN,
Petitioner,

v.

STATE OF UTAH,
Respondent.

On Writ of Certiorari to the Utah Supreme Court

BRIEF FOR DUCHESNE COUNTY, UTAH, AS *AMICUS CURIAE* IN SUPPORT OF RESPONDENT

HERBERT WM. GILLESPIE
Duchesne County Attorney
P.O. Box 206
Duchesne, UT 84021
(801) 738-2435

JESSE C. TRENTADUE
Counsel of Record
SUITTER, AXLAND & HANSON
175 South West Temple
Salt Lake City, UT 84101
(801) 532-7300

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BRIEF FOR DUCHESNE COUNTY, UTAH, AS *AMICUS CURIAE* IN SUPPORT OF RESPONDENT

INTEREST OF *AMICUS CURIAE*

The concern that prompts the filing of this Brief can be simply stated. Prior to the litigation of this reservation boundary issue, this Court, the United States and the Tribe itself had taken the position that the Ute Tribe's reservation consisted of 1 million acres, not the 4 million acres encompassed within the boundaries of the original Uncompahgre and original Uintah Reservations. More than 18,000 residents of Duchesne County and Uintah County thus face the prospect of being suddenly thrust into the status of residents of an Indian reservation, where their officials would have only limited jurisdiction and where they would have no elective voice in the governance of their affairs and property by the Tribe. For its part, the Ute Tribe has enacted a comprehensive Tribal Code which, by its terms, is applicable to Indians and non-Indians alike throughout both historic reservation areas. *See e.g., Brendale v. Confederated Tribes and Bands of the Yakima Indian Nation*, 492 U.S. 408 (1989). Compared to *Solem v. Bartlett*, 465 U.S. 463 (1984), *Rosebud Sioux Tribe v. Kneip*, 430 U.S. 584 (1977), *DeCoteau v. District County Court*, 420 U.S. 425 (1975), *Mattz v. Arnett*, 412 U.S. 481 (1973), or *Seymour v. Superintendent*, 368 U.S. 351 (1962), more people, more area and more resources are at stake here because of the conflicting decisions of the Utah Supreme Court and the United States Court of Appeals for the Tenth Circuit. In this respect, *Amicus Curiae* Duchesne County is especially concerned. The original boundaries of the Uintah Reservation encompass the area of Duchesne County that is most populated and developed. *See*, for example, *Brief for the City of Roosevelt, Utah, Amicus Curiae.*

SUMMARY OF ARGUMENT

The Utah Supreme Court correctly concluded that the Uintah Act of May 27, 1902 (32 Stat. 245), Joint Appendix 159-160 (hereafter "JA") as amended, which

provided that the unallotted lands of the Uintah Reservation be restored to the public domain, constituted clear evidence of disestablishment, as this Court has recognized. In a conflicting opinion, the *en banc* majority of the court of appeals mistakenly believed that this Court's decision in *Solem* dictated "a different result," despite the fact that in *Solem* the Court indicated that it was following a path clearly marked by its prior decisions. The fundamental error of the *en banc* majority centered around a misconstruction of *Solem* regarding the significance of public domain terminology. Up front, *Solem* specially referenced public domain terminology in conjunction with other operative language that "strongly" suggested disestablishment and the *en banc* majority missed the point. *Solem* at 470, citing *Seymour v. Superintendent* at 355 (restored to public domain language). Instead, the *en banc* majority focused on a footnote in that portion of the *Solem* opinion directed only to miscellaneous provisions in the balance of the Solem Act. Even there, the *en banc* majority simply painted *Solem* with too broad a brush.

As a result, the *en banc* majority failed to take into account important factors uniformly understood to constitute explicit expressions of congressional intent to disestablish both the original Uintah and the original Uncompahgre Reservation. Moreover, the *en banc* majority ignored the unwavering position of the federal government since 1897 that the original Uncompahgre Reservation no longer exists (The United States, participating as *Amicus Curiae*, failed to inform the *en banc* court that the Uncompahgre documentation "compels" a conclusion that the reservation *was* disestablished, as the United States subsequently told this Court; instead, the United States simply took no position on this nearly identical *in pari materia* Act, and argued the other *in pari materia* Act *was not* intended to disestablish the original Uintah reservation.) Accordingly, the *en banc* majority paid little attention to the similarly long-standing administrative and congressional treatment of the original Uintah Reservation. Relying on what it deemed the "*Solem* standards,"

it then fashioned the second largest Indian reservation in the United States. In construing operative public domain language as it did, the *en banc* majority thus attempted to "remake history," which this Court admonished "cannot" be done in order to resurrect reservations that long ago ceased to exist. *DeCoteau*, 420 U.S. at 449; *accord Rosebud*, 430 U.S. at 615.

Squarely at issue here is the Uintah Act of May 27, 1902, 32 Stat. 245, JA 159-160 as amended, one in the series of surplus land statutes Congress passed between 1887 and 1920 when land areas once set aside as Indian reservations were opened for settlement pursuant to § 5 of the General Allotment Act of 1887, 24 Stat. 388. LD 13.[1] In the last thirty (30) years, this Court has addressed these difficult and complex questions a number of times to resolve similar conflicts and make clear important points of law. *Solem v. Bartlett*, 465 U.S. at 463 (1984); *Rosebud Sioux Tribe v. Kneip*, 430 U.S. 584 (1977); *DeCoteau v. District County Court*, 420 U.S. 425 (1975); *Mattz v. Arnett*, 412 U.S. 481 (1973); *Seymour v. Superintendent*, 368 U.S. 351 (1962). The limited historical perspective of *Seymour* and *Mattz* (no disestablishment intended) was broadened considerably in *DeCoteau* and *Rosebud* (disestablishment intended), and *Solem* confirmed, while the end result could vary, congressional intent would always control. The Utah Supreme Court decided the issue within the guidelines of this precedent but the *en banc* majority did not.

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[1] The record on appeal includes a Joint Compendium of Legislative Documents and Joint Exhibits, which include Executive Orders, Presidential Proclamation and certain Secretarial Orders, compiled and used by the District court. In addition to formal citation form, these sources are referred to parenthetically by their corresponding index numbers, LD 1 to LD 217, and JX 1 to JX 485. *See Ute Indian Tribe*, JA 104, n.2, and *Ute Indian Tribe*, 521 F. Supp. at 1080, n.17. *Amicus Curiae* Duchesne County App. at 1a-332a, *infra*, sets forth the entire legislative history of both the Uncompahgre Acts and the Uintah Acts. *See, in pari materia* context of legislation and related arguments *supra*, at 2, *infra*, at 11-13, 14-27.

In *Ute Indian Tribe*, the *en banc* majority's conclusion that *Solem* "dictates" a different result with respect to the crux of this case, *i.e.* the significance of operative public domain terminology, is explicitly stated:

> The original expression 'return to the public domain' does *not* reliably establish the clear and unequivocal evidence of Congress' intent to change boundaries. *Solem*, 104 S.Ct. at 1166 [majority opinion].
>
> Our *conclusion* is that the phrase 'restore to the public domain' is *not* the same as a congressional state of mind to disestablish [majority opinion].
>
> Although the district court and the panel viewed this as language of cession, I believe that *Solem dictates* a different result [concurring opinion].
>
> Prior to *Solem*, 'public domain' language could have been construed as more conclusive evidence of disestablishment; following *Solem*, the term must be viewed as *ambiguous* in portent. . . [concurring opinion].
>
> Ultimately, I interpret *Solem* to *hold* that 'public domain' language standing alone is *insufficient* to support a finding of explicit congressional intent to disestablish [concurring opinion].

Ute Indian Tribe v. Utah, JA 99, 106, 107, 106 (emphasis added). And the extent to which the *en banc* majority departed from the principles set forth by this Court is specifically supported in a subsequent decision by a different panel of the court of appeals, as specifically noted by the Utah Supreme Court. *Pittsburg & Midway Coal Mining Co. v. Yazzie*, 909 F.2d 1387, 1400 (10th Cir. 1990), *cert. denied*, 498 U.S. 1012 (1990) ("Moreover, our conclusion is unexamined and unsupported in the opinion"). *See* JA 37-41.

ARGUMENT

I. THE UNITED STATES, PARTICIPATING AS *AMICUS CURIAE* IN THE FEDERAL DISTRICT COURT AND THE COURT OF APPEALS, FAILED TO INFORM THOSE COURTS THAT UNCOMPAHGRE DOCUMENTATION COMPELS THE CONCLUSION THAT ONE RESERVATION WAS DISESTABLISHED, AS THE UNITED STATES SUBSEQUENTLY TOLD THIS COURT; INSTEAD, THE UNITED STATES SIMPLY TOOK NO POSITION ON THIS NEARLY IDENTICAL *IN PARI MATERIA* ACT, AND ARGUED THE OTHER *IN PARI MATERIA* ACT WAS NOT INTENDED TO DISESTABLISH THE ORIGINAL UINTAH RESERVATION. AFTER THE *EN BANC* DECISION, THE UNITED STATES THEN TOLD THIS COURT THAT THE *EN BANC* COURT WAS HALF-WRONG, BUT THE UNITED STATES HAS NOT MENTIONED ANY OF THIS IN THE BRIEFS JUST FILED IN THIS COURT INVOLVING THE SAME ACTS AND THE SAME RESERVATION. THE UTAH SUPREME COURT CANNOT BE FAULTED FOR FAILING TO FOLLOW THIS PATH.

A. The History of the Reservations. The Ute Indian Tribe is a federally-recognized Indian tribe comprised of the Uintah, White River and Uncompahgre Bands. There are today approximately 1,800 enrolled members of the Tribe, nearly all of whom live on trust lands in the Uintah Basin of northeastern Utah. The dispute concerns not those lands or additional trust lands, which comprise about a million acres, but the surrounding area of 3 million acres, which had been set aside during the 1800's as the Uintah and Uncompahgre Reservations (JA 130). Nearly all of this disputed area lies within Duchesne and Uintah Counties. On the 4 million acres within the boundaries of the original reservations, the total non-Indian population is about 18,000. In 1975, the Tribe enacted a Law and Order Code asserting jurisdiction over the entire 4 million acre region on the basis that the area continued to retain reservation status despite turn-of-the

century legislation restoring the area to the public domain and despite the fact that at least in regard to one portion of the region—the original Uncompahgre Reservation—no agency of the federal government has treated it as an Indian Reservation since 1897, no tribal members live there and the United States agrees it does not exist. Memorandum of Petitioner at 4-6, *Andrus v. Utah,* 446 U.S. 500 (1980) Brief for the United States as *Amicus Curiae, Ute Indian Tribe v. State of Utah,* U.S. Supreme Court No. 85-1821 (November 1986).

The original Uncompahgre Reservation, created by Executive Order of January 5, 1882 (I Kappler 901), encompassed more than 1.9 million acres, nearly all of which is in Uintah County.[2] In the Act of August 15, 1894, ch.20, 28 Stat. 286, 337-338, App. 72a-73a, Congress directed that when a Presidential commission determined which lands would remain after allotments to the Uncompahgre Indians, those unallotted lands "shall, by proclamation, be restored to the public domain," [3] as the Commissioner of Indian Affairs stated.

The original Uintah Reservation, which had been created in the 1860's, consisted of more than two million acres, most of which is located in Duchesne County.[4] Pursuant to the Act of May 27, 1902, JA 159-160 (32 Stat. 245, 263), as amended, a Presidential Proclamation

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[2] *See e.g.,* [1892] Commissioner of Indian Aff. Rept., at 908 (JX 27) [1911] Commissioner of Indian Aff. Rept., at 92 (JX 353). ("JX" refers to the Joint Exhibits at trial.)

[3] *E.g.,* [1899] Commissioner of Indian Aff. Rept. at 543 (JX 117); [1911] Commissioner of Indian Aff. Rept. at 92 (JX 353). The reservation was merely a temporary executive order reserve from which allotments were to be made. The Uncompahgre Utes' ancestral home was originally in Colorado. See 111-112, n.7 (Seymour, J., concurring). *See generally, Sioux Tribe of Indians v. United States,* 316 U.S. 317 (1942).

[4] *See* Executive Order of Oct. 3, 1861 (I Kappler 900); Act of May 5, 1864 (13 Stat. 63); [1879] Commissioner of Indian Aff. Rept., at 331 (JX 3). The western-most part of the original reservation is located in Wasatch County and the eastern-most part is located in Uintah County.

of July 14, 1905 (34 Stat. 3119) JA 176-184, provided that all the unallotted and unreserved lands of the original Uintah reservation were restored to the public domain and opened for public settlement under the homestead and townsite laws.[5] The following exceptions were made from this Proclamation: (1) the Secretary of the Interior set aside approximately 250,000 acres as a grazing reserve for the Ute Indians pursuant to the Joint Resolution of June 19, 1902 (32 Stat. 744) JA 161-163; [6] (2) more than one million acres were added to the Uintah National Forest (34 Stat. 3116); and (3) some 56,000 acres were reserved for reservoir sites for Indians and general agricultural development under the Presidential Proclamation of August 3, 1905 (34 Stat. 3141, *as modified,* 34 Stat. 3143).[7] Of the balance, approximately 99,000 acres were allotted to individual Indians [8] and another 7,000 acres—the "Gilsonite Strip"—had already been restored to the public domain in 1888.[9]

After 1905 and for the next forty years, the tribal reserves, together with the allotted lands in the original Uncompahgre and Uintah Reservations, were treated as

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[5] *See, e.g., Uintah and White River Bands of Ute Indians v. United States,* 139 Ct.Cl. 1, 22 (1957); *Hanson v. United States,* 153 F.2d 162, 162-63 (10th Cir. 1946).

[6] More than 20,000 acres were also set aside by the Department of the Interior as a tribal timber reserve for the Ute Indians. *See e.g.,* Memorandum of Chief Supervisor of Forests, dated March 20, 1922, at 1 (JX 401). *See also,* 1932 Annual Report of the Uintah and Ouray Agency, at 1 (JX 427).

[7] In the Act of April 4, 1910 (36 Stat. 269, 285), Congress provided compensation and thereby extinguished all of the Ute Indians' right, title and interest to these reclamation lands. The Utes were also ultimately compensated for the lands opened to settlement and the National Forest withdrawals. *See e.g., Uintah and White River Bands of Ute Indians,* 139 Ct.Cl. at 6-7, 11.

[8] *See, e.g.,* [1911] Commissioner of Indian Aff. Rept., at 91 (JX 353).

[9] Act of May 24, 1888 (25 Stat. 157). App. 28a.

the Ute Indians' existing reservation.[10] On August 25, 1945, however, a 217,000 acre tract of opened and undisposed of land located within what had been part of the original Uintah Reservation was, by Proclamation of the Secretary of the Interior (10 Fed. Reg. 12409), restored to tribal ownership and "added to and made a part of the existing reservation" pursuant to Sections 3 and 7 of the 1934 Indian Reorganization Act (48 Stat. 984). Later, the Act of March 11, 1948 (62 Stat. 72), added an additional 500,000 acres—the so-called Hill Creek Extension—to the Ute Indians' reservation.[11]

There is no dispute that the tribal reserves together with the remaining allotments—some 360,000 acres—are "Indian country" within the meaning of 18 U.S.C. § 1151(a) and (c). Nor does anyone question that the surplus lands restored to tribal ownership and reservation status in 1945 and in 1948 (the Hill Creek Extension)—which total more than 700,000 acres—are also Indian country. This entire area, comprising more than one million acres,[12] had been considered the extent of the Tribe's existing reservation until recent years (*see, e.g.*, JA 131 (Seth, J., dissenting).[13]

As to the remaining portions of the two original reservations, where Congress ended Indian ownership long ago, the area has historically been the primary concern of the State and other governments. The population and

[10] *See e.g.*, JA 131 (Seth, J., dissenting); S. Doc. No. 78, 66th Cong., 1st Sess., at 1 (1919) (letter of the Secretary of Interior). *See* note 13 *infra*.

[11] A substantial portion of the Hill Creek Extension included lands located within the orignal Uncompahgre reservation. *See, e.g., Ute Indian Tribe*, 521 F. Supp. at 1108-1109.

[12] As a practical matter, checkerboarding has not been a concern. The trust lands are roughly contiguous and not widely interspersed with non-Indian owned lands.

[13] The Tribe has contested that only these lands were originally treated as its reservation. As the dissent concluded, however, the record establishes otherwise (*see* JA 131), a point the *en banc* majority did not dispute.

land use of these disputed 3 million acres are more than 90 percent non-Indian and, as indicated above, nearly all the enrolled members of the Tribe live elsewhere.[14] JA 130 (Seth, J., dissenting) Throughout the disputed area there are a substantial number of incorporated towns and cities (such as Roosevelt, Duchesne and Myton), and in recent years there has been significant natural resource, business and recreational development.

B. Federal District Court. In 1975, however, after enacting its Law and Order Code, the Ute Indian Tribe sued Duchesne County and the Cities of Roosevelt and Duchesne in federal district court.[15] The Tribe claimed extensive criminal and civil jurisdiction over non-Indians and further asserted that the original Uintah and Uncompahgre Indian Reservations, the combined area of which exceeds four million acres, presently exist to the full extent of their historic boundaries. After six years of litigation, the federal district court rendered an opinion holding that the original Uncompahgre Reservation had been disestablished by the Act of June 7, 1897 (30 Stat. 62, 87). App. 186a, *Ute Indian Tribe v. State of Utah*, 521 F.Supp. 1072 (D. Utah 1981). The court further held that the original Uintah Reservation had been diminished through: (1) the withdrawal of the so-called "Gilsonite Strip" pursuant to Act of May 24, 1888 (25 Stat. 157); App. 28a-29a. (2) the withdrawal of approximately one million acres for inclusion in the Uintah National Forest pursuant to the Act of March 3, 1905 (33 Stat. 1048, 1070); JA 168 and (3) the withdrawal of

[14] The tribal governmental unit is also located on the undisputed trust lands. The present governing body of the Ute Indian Tribe is a six member Tribal Business Committee. Two representatives of each of the three Ute Bands, the White River, the Uintah and the Uncompahgre, are elected to this Committee. In recent tribal election, a total of 430 votes were cast for all candidates. *Uintah Basin Standard*, p. 20, April 17, 1985.

[15] The State of Utah subsequently intervened as a party defendant in 1976 and Uintah County, Utah was joined as a defendant in 1979.

approximately 56,000 acres of land for the Strawberry Reclamation Project by the Act of April 4, 1910 (36 Stat. 269, 285). The court also recognized, as had the parties, that the Tribe's reservation had been enlarged to include the 500,000 acre tract known as the "Hill Creek Extension" under the Act of March 11, 1948 (62 Stat. 72). *Id.* at 1154.

C. Court of Appeals (Panel). On appeal, a panel of the Tenth Circuit unanimously affirmed the lower court's decisions that: (1) the original Uncompahgre Reservation had been disestablished; (2) the original Uintah Reservation had been diminished by the withdrawal of the "Gilsonite Strip" and the land for the Strawberry River Irrigation project; and (3) the Tribe's reservation was later expanded by the Hill Creek Extension. By a divided vote, the panel also affirmed the district court's holding that the original Uintah Reservation had been diminished by the National Forest withdrawal. Reversing the lower court's decision, the panel held that reservation status had also ended with respect to lands within the original Uintah Reservation opened for settlement pursuant to the Act of May 27, 1902, *as amended* (32 Stat. 245, 263). *Ute Indian Tribe v. State of Utah,* 716 F.2d 1298 (10 Cir. 1983).

D. Court of Appeals (*En Banc*). The Tribe petitioned for rehearing *solely* in regard to the status of the former Uintah Reservation lands opened for settlement pursuant to the 1902 Act. After this Court's decision in *Solem v. Bartlett,* 465 U.S. 463 (1984), the court of appeals granted rehearing *en banc*. The Tribe then filed an amended petition to include the status of the original Uncompahgre Reservation and the National Forest withdrawal from the original Uintah Reservation.

The *en banc* court, with two judges dissenting, disagreed with the decision of the panel and, invoking *Solem,* held that both the original Uncompahgre and Uintah Reservations still exist undiminished (except for the 1888 Gilsonite and 1910 Strawberry Reclamation Project with-

drawals).[16] JA 88. The *en banc* majority thus reversed the principal aspects of the district court's decision, which the panel had affirmed, including the lower court's holding that the original Uncompahgre Reservation had been disestablished.[17]

E. The Positions of the United States. The United States participated as *amicus curiae* in the district court and in the court of appeals. Although it supported the Tribe with respect to the status of the original Uintah Reservation, it simply took no position regarding the original Uncompahgre Reservation. Memorandum of the United States as *Amicus Curiae, Ute Indian Tribe v. State of Utah,* 521 F.Supp. 1072 (D. Utah 1981); Brief of the United States as *Amicus Curiae, Ute Indian Tribe v. State of Utah,* 716 F.2d 1298 (10th Cir. 1983). While the case was pending in the district court, however, the Solicitor General informed this Court that since 1897, the federal government had considered the original Uncompahgre Reservation to have been disestablished and that "the historic evidence compels the conclusion that the Uncompahgre Reservation no longer subsists . . ." [18]

But the United States did not even tell the district court (or the court of appeals) anything about this position. Instead, the United States simply said it took no position on the Uncompahgre issue. In this respect, the United States left both courts in the dark, until *after* the *en banc* decision resurrected the original boundaries of both reservations. Only then did the United States admit that "no

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[16] Judge Seymour, joined by three other Circuit Judges, wrote a concurring opinion amplifying the court's holding respecting the National Forest withdrawals and the Uncompahgre Reservation JA 102-120.

[17] Judge Doyle, who wrote the *en banc* majority's opinion, was a member of the panel which first heard the case and joined in the panel's decision that the Uncompahgre Reservation had been disestablished.

[18] Memorandum for the Petitioner in Response to the Motion of the Ute Indian Tribe, at 6, *Andrus v. Utah,* 446 U.S. 500 (1980) (No. 78-1522) (September 25, 1979).

position" really meant that the original Uncompahgre Reservation was, in fact, disestablished by the Uncompahgre Acts and that the Uncompahgre documents *compelled* that conclusion:

> In the end, however, the court of appeals' analysis [on Uncompahgre] is *unconvincing*. . . the court of appeals *erred* in holding that the Uncompahgre Reservation was not disestablished. . . ."

Brief for the United States as *Amicus Curiae* at 18, 20, *Utah v. Ute Indian Tribe,* U.S. Supreme Court No. 85-1821 (November 1986) (emphasis added).[10]

The Uncompahgre Acts are clearly *in pari materia* with Uintah Acts, both are public domain acts, specifically cross referenced by Congress time and time again. In fact, by definition, according to the Ute Indian Tribe, the "Uintah and Ouray" Reservation is all the area within the original confines of *both* reservations. The United States should have, in all fairness to all parties and the federal courts, briefed the reasons that compelled disestablishment in one instance, but not the other.

Moreover, inexplicably, the United States has not said one word about any of this to this Court in this case—nothing in the Brief for the United States as *Amicus Curiae,* in support of Petition for Certiorari, and nothing in the Brief for the United States as *Amicus Curiae* in support of Petitioner. The United States has maintained, on the other hand, that the same analysis of similar documentation in the same opinion by the same *en banc* majority is essentially sound with respect to the original Uintah Reservation. Brief of the United States as *Amicus Curiae* in Support of Petitioner, *Hagen.* Even the United States cannot explain how the *en banc* majority could, consistent with this Court's precedents, resurrect a two million acre reservation when that reservation ended in 1897, and has not been treated as an Indian Reservation

[10] This is a significant admission because in this Court the United States has previously, without exception, argued against reservation disestablishment. *See,* n.12, *infra.*

by the Department of the Interior or any other federal agency since then (no members of the Ute Tribe even live there). And even the most sophisticated argument cannot cover up the glaring inconsistencies inherent in such a position—especially to the extent that the Uncompahgre Acts are *in pari materia* with the Uintah Acts. *See e.g., Oregon Dept. of Fish & Wildlife v. Klamath Indian Tribe,* 473 U.S. 753 (1985). Properly construed, the Uncompahgre disestablishment indicia, all of which were substantially ignored by the *en banc* majority, were also present in the Uintah documents. It should have reinforced the conclusion that the original Uintah Reservation was similarly disestablished. Not fully informed by the United States and blinded by a fundamental misreading of *Solem,* the *en banc* majority missed its usual way in *both* instances. The Utah Supreme Court was not remiss in refusing to follow the same path.

F. The Supreme Court of the State of Utah. It was in this light that the Utah Supreme Court subsequently decided *Hagen/Perank.* JA 15-87. Knowing the *en banc* majority was at least half-wrong in reversing the federal district court (according to what the United States told this Court), only heightened the awareness of the Utah Supreme Court, underscoring the need for a separate and independent evaluation of the disestablishment issue. And even though the Uncompahgre issue was not directly before the Utah Supreme Court, the opinion of the Court explicitly confirms that the Utah Court was very much aware of the most recent views of the United States. JA 19-20.

In *Hagen/Perank,* the Utah Supreme Court carefully examined all of this Court's recent disestablishment cases, and gave proper emphasis to the "restore to the public domain" language which clearly appeared in the operative language of the 1902 Uintah Act. JA 30-39. The offenses in *Hagen/Perank* occurred there, within the original boundaries of the Uintah Reservation and, for the most part, the Utah Supreme Court limited its opinion to this

homesteaded and settled area. In addition, the Court followed the 1902 Uintah Act through the legislative maze, step by step, and determined that Congress never intended to repeal or alter in any significant way this basic congressional understanding. JA 44-62.

The Utah Court did question the reservation status of the one million acre addition to the Uintah National Forest from the original Uintah Reservation, also pursuant to the 1902 Uintah Act. 1905 Proclamation of President Roosevelt, 34 Stat. 3116. JA 69-71. According to the *en banc* majority, this part of the Uintah National Forest is now also within the Uintah Reservation (the district court and the panel agreed it was not). JA 75, n. 28. (Until 1977, the United States Department of Agriculture, Forest Service, agreed with the district court and the panel. See *Amici* Counties Brief in Support of Petition, App. B at 25a-29a).

As a result, the Utah Supreme Court did not have occasion to really address the *Uncompahgre* issue. Nevertheless, for the reasons noted *supra*, a limited review of the Uncompahgre documentation is both appropriate and informative, even if the area itself is not directly at issue here.[20]

II. THE UNCOMPAHGRE AND UINTAH DOCUMENTATION CONFIRMS DISESTABLISHMENT.

A. The Uncompahgre Documentation. The original Uncompahgre Reservation, created by Executive Order of January 5, 1882 (I Kappler 901) (LD 12), encompassed more than 1.9 million acres, nearly all of which is in Uintah County. In the Act of August 15, 1894, ch. 20, 28 Stat. 286, 337-338 (LD 35), App. 72a-73a. Congress directed that when a Presidential commission determined which lands would remain after allotments to the Uncompahgre Indians, those unallotted lands "shall,

[20] The *en banc* majority reestablished the original boundaries of both reservations.

by proclamation, be restored to the public domain. . . ." [21] Three years later, pursuant to the Act of June 7, 1897 (30 Stat. 62, 87) (LD 49), App. 186a, implementing the 1894 Act, approximately 12,500 acres within this area (or less than 1 percent of the original Uncompahgre Reservation) were allotted, while the remaining lands were thereafter treated as "restored to the public domain," as the Commissioner of Indian Affairs stated.[22]

There was a clear continuity of purpose between the 1894 Act containing operative public domain language, App. 72a, and the 1897 Act, which mandated the opening of the original Uncompahgre Reservation, App. 186a. *See* JA 136-137. The legislative history of the 1897 Act shows that the purpose of this provision was to carry forth and implement the 1894 Act. App. 153a-158a. It shows as well that the purpose remained disestablishment. App. 161a-162a. The *en banc* majority did not explain how, in the face of this legislative history, Congress could have intended the original Uncompahgre Reservation to remain intact. More than that, the *en banc* majority failed even to discuss the matter. (*See* JA 97-103). And so did the United States.

The record also shows that, after the opening in 1898, there was "a widely held, contemporaneous understanding." (*Solem*, 465 U.S. at 471), that the Uncompahgre Reservation had been disestablished. Again, the *en banc* majority does not discuss the fact that officials of the Department of the Interior immediately began to refer to and treat the area as the "former" or "late" reserva-

[21] *Importantly*, the same Act directed the commission to:

> Also negotiate and treat with the Indians properly residing upon the *Uintah* Indian Reservation, in the Territory of Utah, for the relinquishment to the United States of the interest of said Indians in all lands within said reservation not needed for allotment in severalty to said Indians.

App. 72a (emphasis added). *See, in pari materia* argument.

[22] *E.g.*, [1899] Commissioner of Indian Aff. Rept. at 543 (JX 117); [1911] Commissioner of Indian Aff. Rept. at 92 (JX 353).

tion.[23] The record also reveals a firm understanding that the unallotted lands were "restored to the public domain." [24] Because these materials contain unambiguous expressions of disestablishment by government officials responsible for implementing federal Indian policy, they constitute authoritative, contemporaneous statements reflecting the intent of Congress. *See, e.g., Rosebud,* 430 U.S. at 602-03.

Moreover, the *en banc* majority failed to take into account contemporaneous legislation treating the original Uncompahgre Reservation as having ended. The Act of March 1, 1899 (LD 61), for example, described the area as the "former Uncompahgre Indian Reservation." 30 Stat. 940. Because this provision was passed by the same Congress which enacted the 1897 Act (*viz.,* the 55th Congress), it constitutes compelling evidence of a congressional intent to disestablish. *See Rosebud,* 430 U.S. at 603 n.25 (significance attributed to similar legislation passed shortly after the subject act "by the same Congress. . .").

Finally, the *en banc* majority said nothing about the unwavering position of the Department of the Interior since 1897 that the original Uncompahgre Reservation no

[23] *See, e.g.,* [1898] Commissioner of Indian Aff. Rept. at 43 (JX 108); [1899] Commissioner of Indian Aff. Rept. at 43, 351-52 (JX 117); Letter of the Commissioner of Indian Affairs to the Secretary of the Interior, dated April 12, 1899 (JX 113); H.R. Doc. No. 33, 58h Cong., 1st Sess., at 1, 2 (1903) (letters of the Secretary and Commissioner); Letter of the Commissioner of Indian Affairs to the Secretary of the Interior, dated July 27, 1903 (JX 168).

[24] [1899] Commissioner of Indian Aff. Rept. at 543 (JX 117); (Acres reserved for 83 allottees, remainder of reservation *restored to the public domain, Act of June 7, 1897*); [1900] Commissioner of Indian Aff. Rept. at 615 (JX 123) (Acres reserved for 83 allottees, remainder of reservation *restored to the public domain, Act of June 7, 1897*); [1901] Commissioner of Indian Aff. Rept. at 669 (JX 154) (Acres reserved for 83 allottees, remainder of reservation *restored to the public domain, Act of June 7, 1897*); [1904] Commissioner of Indian Aff. Rept. at 564 (JX 198) (Acres reserved for 83 allottees, remainder of reservation *restored to the public domain, Act of June 7, 1897*) (emphasis added).

longer exists, a position the United States later confirmed in this Court, as noted *supra.* Nor did the *en banc* majority opinion address the 1948 Act (62 Stat. 72) (LD 187)—the Hill Creek Extension—extending what was then the Tribe's existing Reservation to include lands situated within the original Uncompahgre Reservation, which, in the words of the Solicitor General, would have constituted "a futile act if the latter Reservation still subsisted. . . ." Federal Government Memorandum in *Andrus v. Utah, supra,* at 5.[25] In the 1948 Act itself, Congress once more referred to the historic Uncompahgre Reservation in the past tense, that is, as the "former" reservation. 62 Stat. 77 (§ 2). Moreover, "nothing since 1948 indicates any Congressional change of mind. . ." Federal Government Memorandum in *Andrus v. Utah, supra,* at 5, Brief of the United States as *Amicus Curiae, State of Utah.*

Given its constancy, this long-standing administrative and congressional treatment was entitled to considerable weight. But there it was given none, contrary to *Rosebud's* instruction that:

> the fact that neither Congress nor the Department of Indian Affairs has sought to exercise its authority over this area, or to challenge the State's exercise of authority is a factor entitled to weight as part of the "jurisdictional history."

430 U.S. at 604.

As to this part of the region—the original Uncompahgre Reservation—the *en banc* majority thus contradicted the federal government's position, taken in this Court, that the reservation ended in 1897, and has not been treated as an Indian reservation by the Department of the Interior or any other federal agency since then. Indeed, the Uncompahgre Utes, in 1965 alleging that they had "lost the reservation," recovered money dam-

[25] The concurring opinion at least acknowledges that the 1948 Act seems "irreconcilable with continued reservation status." JA 115.

ages against the United States, as the government told this Court. Brief of the United States as *Amicus Curiae, Ute Indian Tribe v. State of Utah,* U.S. Supreme Court No. 85-1821, November 1986. See Petition, at p. 7, in *Ute Indian Tribe v. United States,* 14 Ind. Cl. Comm. 707 (1965) (that the Uncompahgre Band of Utes "have lost the reservation set aside for their use," that the federal government "refused to provide any reservation for said Indians," and that the government did not maintain the original "Uncompahgre Reservation in Utah as a reservation").

In *Andrus v. Utah,* 446 U.S. 500 (1980), the Ute Tribe had moved to intervene on the basis that the lands involved were within the original Uncompahgre Reservation and that this reservation had not been disestablished. The Solicitor General opposed the Tribe's intervention on the basis that:

> The fact is that, for several decades at least, the Department of the Interior has considered the Uncompahgre Reservation as disestablished. That remains its view today. Our own review of the evidence affords no basis for disagreeing with that conclusion. . .

Federal Government Memorandum in *Andrus v. Utah,* at 6.

Among other factors, the Solicitor General pointed out that "Congress treated the Uncompahgre Reservation as a mere temporary asylum for the Ute Band of that name," "in 1965, the Ute Tribe obtained a stipulated judgment in the Indian Claims Commission to compensate it for the failure of the United States to provide the Uncompahgre Band with a permanent Reservation (*Ute Indian Tribe of the Uintah and Ouray Reservation v. United States,* 14 Ind. Cl. Comm. 707)," and "at no time since 1897 does it appear that the Department of the Interior (or any other government agency) has treated the Reservation as still in existence." *Id.* at 4-5. Moreover, the Solicitor General informed this Court that "the historic evidence *compels* the conclusion that the Uncompahgre

Reservation no longer subsists." *Id.* at 5 (emphasis added).

There is more. The *United States* answered the Tribe's petition in the Indian Claims Commission by stating that with respect to the original Uncompahgre Reservation—which the Tribe itself alleged had been disestablished—the Tribe "suffered no loss by the *restoration to the public domain* . . . of the unallotted lands within the area. . . ." Answer of the United States, at p. 17 (March 9, 1954), in *Ute Indian Tribe of the Uintah and Ouray Reservation v. United States,* No. 349, 14 Ind. Cl. Comm. 707 (1965) (emphasis added). Assuming the public domain provision of the 1894 Act was implemented by the 1897 Act, the *en banc* majority's point instead was that *Solem* altered the settled rule that such language constituted a clear and unequivocal expression of disestablishment. It is on that point that the *en banc* majority erred and rendered a decision in conflict with the decisions of this Court, the lower federal courts, and the Utah Supreme Court. *Moreover, it is readily apparent that this fundamental misconception distorted the perspective from which the Uintah documents should have been viewed.*

B. The Uintah Documentation. The Brief of Respondent State of Utah sets forth in a concise manner the general arguments that clearly demonstrate that the Utah Supreme Court was correct in its analysis of the Uintah Act, as amended, and in its conclusion—and there is no need to repeat them here. Brief of Resp. at 13-34. A brief summary of some of the more specific Uintah references in support of this conclusion, however, presents the issue in the proper historical perspective. It also reinforces the position that had the *en banc* majority been fully informed by the United States and not been so blinded by misreading *Solem,* it could not have ignored the combined weight of Uintah documentation. The opinion of the district court, *Ute Indian Tribe v. State of Utah,* 521 F. Supp. 1072, 1111-1150 (D. Utah 1981), the panel of the court of appeals, *Ute Indian Tribe v.*

State of Utah, 716 F 2d 1298, 1307-1313 (10th Cir. 1983), and the dissenting *en banc* opinion of Judge Seth at 773 F.2d at 1108-1114, JA 120-158, also recount and reflect this perspective. And nothing in *Solem* or any other opinion of this Court even suggests that it could be so easily discounted, as the *en banc* majority incorrectly assumed.

We start, without argument, with the general proposition, as stated in H.R. Rep. No. 791, 50th Cong., 1st Sess. (1888) (LD 15) App. 1a: "[t]he policy of the Government from its earliest days has been to restore Indian reservations or portions thereof to the public domain as the exigencies of advancing population required it. . . ." *Id.* at 4a-5a: *See e.g.*, T. Donaldson, *The Public Domain, Its History, with Statistics* (1884) 240-248. Congress passed the Uintah Act of May 27, 1902, 32 Stat. 245 (LD 82), JA 159-160, with this operative public domain language expressly stated. And prior to the passage of the 1903 Uintah Act, JA 163-165, an amendment was proposed to the appropriations bill which provided money for the resurveying of portions of the southern and western boundaries of the Uintah Indian Reservation. App. 200a. Congressman Sutherland of Utah, later to become United States Supreme Court Justice Sutherland, objected to the amendment on the basis that it would *not* serve any useful purpose. In taking this stance, Congressman Sutherland made the following remarks:

> If the Uintah Reservation is opened, which I believe it will be, this appropriation . . . for reestablishing the boundary lines of the reservation *is entirely useless*. The boundary lines have been in their present condition for many years, and if by any mischance the reservation should not be opened it will not hurt to let it wait for another year; and if the reservation is opened it is simply an appropriation . . . *without any useful purpose whatever*. . .

App. 204a (emphasis added).

Moreover, the Congressman also stated that "[t]he reservation will be *simply restored to the public domain*." *Id.* (emphasis added). The effect that the 1902 Act was intended to have on the boundaries of the Uintah Reservation was neither questioned nor disputed; in fact, the amendment which was the focus of Congressman Sutherland's remarks was apparently rejected on that basis. *See id.*

By letter dated April 27, 1903 (App. 243a-247a), the then Acting Commissioner of Indian Affairs directed United States Inspector James McLaughlin to go to Utah, explain the legislation to the Ute Tribe and obtain the consent of the Uintah and White River Utes to the allotment of their lands.[26] The instructions contained in that letter made clear that allotments were to be made and that the unallotted lands were to be restored to the public domain. *Id.* at 244a-245a. Moreover, the opening of the surplus lands for public entry and settlement was characterized as a "restoration to the public domain." *Id.*

Conferences with the Utes were conducted by Inspector McLaughlin from May 18 to May 23, 1903. *See* Minutes of Councils with Uintah and White River Indians at 34 (1903) (JX 162), App. 333a-407a, (hereafter Transcript). Significantly, as the Utah Supreme Court noted, the Inspector pointed out:

> [E]ach of you will have a *boundary* to your individual holdings and there will also be a *border* to that 250,000 acre tract set aside for pasturage. . . . You say that line is very heavy and that the reservation is nailed down upon the border. That is very true as applying to the past many years and up to now, but congress has provided legislation which will pull up the nails which hold down that line and after next year there will be *no outside boundary line to this reservation*.

App. 368a (emphasis added).

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[26] James McLaughlin was the same United States Indian Inspector who conducted the 1901 and later negotiations with the Rosebud Indians involved in *Rosebud Sioux Tribe v. Kneip, supra*, 430 U.S. at 590, 606-07, & 610.

The transcript also attests that the tribal members were well informed and understood the point exactly, even though they did not like the result described. *See, e.g.*, App. 339a-341a, 344a-351a, 358a, 359a-360a, 365a-367a, 371a, 374a, 378a-382a. For example, in the Council held on May 20, 1903, Wapsoch, a Uintah Ute, stated "[w]e do not want this *reservation line* changed in any way." App. 346a (emphasis added). Later, in the same Council, Red Cap, a White River Ute, confirmed this understanding:

> The Indians have understood what they have heard, and they hold this reservation, and they do not want any of it cut off. We want this *reservation line* to be just as it is. I hold it for my children, and I don't want to part with it. I have heard talk about selling before. . .

App. 349a (emphasis added).

And, in the Council held on May 22, 1903, Parank stated as follows:

> The Indians are talking about this *reservation line* that has been put here for a long time, and they cannot understand why it is thrown aside. It was put down a long time ago. . . . Now they are trying to *throw it aside*. . . .

App. 381a (emphasis added).

After Inspector McLaughlin completed his report, Congress revisited the issue more than once because of delays in surveys and allotments. Mindful of the congressional authority confirmed by the Court in *Lone Wolf*, the public domain references were again consistent and unequivocal. Several examples include:

> Hereby provided that so much of said lands as will be *restored to the public domain* shall be open to settlement and entry by proclamation of the President. . . And further provided, that for one year immediately following *the restoration of said lands to the public domain* said lands. . .

App. 286a-287a (emphasis added).

> *Provided*, That so much of said lands as *will be under* the provision of said acts *restored to the public domain* shall be open to settlement and entry by proclamation of the President. . .

App. 285a (emphasis added).

> Representative Sherman. "[T]he amendment undertakes to do this: To *restore* this [the lands to be opened for settlement] to the *public domain* on the 10th of March. . . ."

App. 304a (emphasis added).

> As the manner of opening Indian reservations to entry and settlement *after the lands are restored to the public domain* is a matter that comes within the jurisdiction of the General Land Office. . .

App. 279a-280a, letter of the Commissioner of Indian Affairs contained in that Report (emphasis added).

The Utah Supreme Court recognized minor changes in the final Uintah amendments were not intended or understood to alter this basic proposition as it related to reservation disestablishment. JA 41-57. As the Utah Supreme Court explained, the 1905 congressional debate also addressed the "manner of such opening," *Perank*, JA 55-56. Because Congress could not have considered the issue in an historical vacuum, one would expect some congressional reference to precedent—and here the precedent cited was the 1904 *Rosebud* legislation (the same Act that the *Rosebud* court held reflected the baseline purpose of *disestablishment* in the *Rosebud* legislation). *Rosebud*, 430 U.S. at 592-603.

> The provisions of this [Uintah] bill (Senate Bill 6867) prescribing the manner in which the lands are to be opened are similar to the provisions under which the *Rosebud Indian Reservation* in South Dakota, ...

S. Rep. 4240, 58th Cong. 3d Sess., 15-16 (1905) (LD 102) App. 281a-282a (emphasis added).

> Representative Sherman, The idea being to have such rules and regulations as were prescribed, for instance, in the *Rosebud* Reservation opening. . . .

39 Cong. Rec. 1181 (1905) (LD 103) App. 286a (emphasis added). Other sources confirm this justifiable expectation:

> As stated by Hon. W. A. Edwards, Commissioner General of the United States Land Office at Washington, D.C., it is quite certain that regulations similar to those governing the opening of the *Rosebud Reservation* in Dakota last year, will obtain at the opening of the Uintah Reservation in this state. . . .

Deseret Evening News, July 8, 1905, at 5 (JX 282) (emphasis added).

> Senator Smoot was pleased with the provisions of the reservation bill, ... The manner of opening the reservation will no doubt be the same as that employed at the *Rosebud reservation*. . . .

Deseret Semi-Weekly News, March 20, 1905, at 2, (JX 236) (emphasis added).

> The opening to settlement and entry under the homestead law of the *Rosebud Indian lands* . . . was successfully accomplished, . . . *Equally* successful was the opening to settlement and entry under the homestead laws on August 28, 1905, of the unreserved and unallotted lands of the Uintah Indian Reservation in Utah, ...

Report of the Secretary of the Interior (1905) at 1495 (JX 328) (emphasis added).

> A *precedent* for the proposed [Uintah] legislation will be found in the granting of a similar privilege by the last Congress to homestead settlers upon certain lands which were *formerly* a part of the *Rosebud Indian Reservation*. . . .

S. Rep. 139, 59th Cong. 1st Sess. 2 (1906) (LD 117) (emphasis added).

> A *precedent* for the proposed [Uintah] legislation will be found in the granting of a similar privilege by the last Congress to homestead settlers upon certain lands which were *formerly* a part of the *Rosebud Indian Reservation*. . . .

H.R. Rep. 291, 59th Cong. 1st Sess. 2 (1906) (LD 199) (emphasis added).

A comprehensive thesis by the author of the study that figured prominently in the *Solem* opinion (*Solem*, 465 U.S. at 466 n.5, 477 n.21, 479 nn. 22 & 23, 480 nn. 24 & 25), expressly recognized that the Utah Uintah Act and others "followed the model" of the 1904 *Rosebud* Act. F. Hoxie, *Beyond Savagery: The Campaign to Assimilate The American Indians, 1880-1920* at 390 (Univ. Microfilms 1977).

The Proclamation of President Roosevelt, dated July 14, 1905, confirms that the Utah Supreme Court was correct. JA 176-177 (emphasis added). JA 57-60. See Brief for Respondent State of Utah at 28-31.

More than that, one year later, when President Roosevelt made an adjustment to compensate for an erroneous homestead entry on reserved lands, he expressly set forth in a 1906 Proclamation that the tract in question was then (1906) in the "*former* Uintah Indian Reservation in Utah" and it too was promptly and *appropriately "restored to the public domain,"* as the Utah Supreme Court aptly pointed out (emphasis added). JA 60-61.

And this same understanding is repeatedly confirmed in nearly every source, time and time again, throughout the entire record of the subsequent history of both original reservations. Nothing in the briefs or records in *Seymour, Mattz, DeCoteau, Rosebud,* or *Solem* even approaches the consistency and force of this documentation. Pages of representative excerpts are set forth in App. 408-429a.

This documentation reflects, in a variety of ways, precisely what the Commissioner of Indian Affairs at the time noted in his 1905 Annual Report when he described "the sale of the Ute lands *restored to the public domain*". [1905] Commissioner of Indian Aff. Rep. at 147 (JX 323) (emphasis added). The following year, the Commissioner repeated the point in a letter to the Secretary of the Interior that the lands were "*restored to the public*

domain" and that these lands were "*former reservation lands.*" 40 Cong. Rec. 3405 (1906) (emphasis added). As early as 1906, the State of Utah formally reached this same conclusion. In a 1906 opinion of the Utah Attorney General quoted in the March 31, 1906 edition of the *Vernal Express*, Vernal, Uintah County, Utah, the Attorney General concluded that the 1864 Uintah Reservation was no longer an existing reservation because it had become "*a part of the public domain*" and referred to it as a "*former*" Indian reservation. Appellees' Opening Brief, Add. F, *Ute Indian Tribe*, 716 F.2d 1298 (10th Cir. 1983) (emphasis added).

A decade later, the description was still the same. In a Report submitted to Congress in 1914 respecting the water rights of the Indians within the original Uintah Reservation, H.R. Doc. No. 1250, 63d Cong. 3d Sess. (September 9, 1914) (LD 149), the Secretary of the Interior stated that the surplus lands of that Reservation "*were restored to the public domain*: . . ." and described the Uintah Reservation as the "*former*" Reservation. *Id.* at 2, 5 (emphasis added).

There is no question that this construction confirmed that the land was not within the boundaries of the original Uintah Reservation. The Governor of the State of Utah, as early as 1917, by Proclamation officially described County *boundaries* by references to the "boundary of the former Uintah Indian Reservation." Utah Code Ann. §§ 17-1-10, 17-1-27. In a letter to the Secretary of the Interior dated June 19, 1941 (JX 450), respecting the undisposed surplus lands of the original Reservation, the Commissioner of Indian Affairs described these lands as "lying within the *former boundaries* of the Uintah and Ouray Indian Reservation . . . which lands were opened to entry under the Act of May 27, 1902. . ., as amended." *Id.* at 1 (emphasis added). Later in a published Opinion of the Solicitor of the Department of the Interior dated January 27, 1947, 59 I.D. 393 (JX 454), it was noted: "Allotments were made. . ., and the balance of the lands [of the Reservation], with exceptions

not here material, *were restored to the public domain* pursuant to the Act of May 27, 1902, as amended . . ." *Id.* at 393 (emphasis added).

Until recently, not even the Ute Tribe disagreed with this conclusion. In fact, in 1957, the Ute Tribe and the United States so stated in related litigation in the Court of Claims, *Uintah and White River Bands of Ute Indians v. United States*, 139 Ct. Cl. 1 (1957). There, as the Utah Supreme Court stressed, they entered into a Stipulation, with which the Court of Claims agreed (139 Ct. Cl. at 5-6, 22), quoted the 1902 Act and then succinctly stated the critical point:

> "Pursuant to this [1902] Act and amendments thereto, more fully set out hereafter, allotments in severalty, aggregating 39,349.84 acres by 1905, were made to the Uintah and White River Indians, and surplus lands (with the exception of the forest reserve and reclamation withdrawals and certain mineral entries) *were restored to the public domain*, and opened for disposition under the public land laws for the benefit of the Indians."

See, Counties *Amici* Brief in Support of Petition at 1a-24 (emphasis added). JA 68.

What is more, the United States (and the Ute Tribe) consistently and repeatedly maintained the original Uintah Reservation was a "*former*" reservation (Counties *Amici* Brief App. A, at pp. 15a, 16a, 18a, 23a); and throughout its opinion and findings, the Court of Claims also treated the original Uintah Reservation as having ended. *E.g.*, 139 Ct. Cl. at 2, 25, 28, 56, 64, 69, 70.

This explains why, until recently, the Ute Tribe itself treated only the trust lands as the Tribe's post-1905 reservation.[27] The Utah Supreme Court quoted with approval

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[27] *See e.g.*, 1957 Ute Ten-Year Development Program, at 66-68 (JX 465); 1966 Review and Revision of the Uintah & Ouray Indian Reservation-Wide Program, at 7, 8; 1969 Annual Report of the Uintah Indian Tribe, at 1 (JX 473).

the manner in which the panel of the court of appeals relied on this acknowledgment. JA 69.

Thus, for more than half a century the lands "constituting" the Tribe's reservation were considered to be only those lands held in trust, as this Court itself recognized in *Affiliated Ute Citizens v. United States,* 406 U.S. 128, 141 (1972), in a different context.

Finally, in other decisions rendered in prior litigation, other courts routinely interpreted the 1902 Act, as amended, in a manner that supports all of the points noted above.[28] Indeed, in 1946, the Tenth Circuit expressly held in *Hanson v. United States,* 153 F.2d 162 (10th Cir. 1946)—a decision unaccountably ignored by the *en banc* majority (but not by the Utah Supreme Court)—that the unallotted and unreserved lands of the original Uintah Reservation were "*restored to the public domain by the Act of May 27, 1902. . . .*" *Id.* at 163 (emphasis added). JA 72. If the *en banc* majority had not misread *Solem,* these points should have been relied on to support the same conclusions.

III. *SOLEM v. BARTLETT,* 465 U.S. 463 (1984), ATTESTS THAT THIS COURT HAS CONSISTENTLY RECOGNIZED THE IMPORTANCE OF OPERATIVE PUBLIC DOMAIN TERMINOLOGY.

The crux of the *Solem* analysis begins with the most essential principles the Court readily recognized from established precedent. *Solem* at 470-472. In terms of operative language, or "statutory language used to open" the areas, according to *Solem,* explicit reference to "cession" or "other language" figured foremost in these established principles, "strongly suggesting" disestablishment. *Solem* at 470. Accordingly, the Court set forth these specific examples first:

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[28] *See Hanson v. United States,* 153 F.2d, at 162-63; *Uintah and White River Bands of Ute Indians,* 139 Ct.Cl., at 5-6 & 21-22; *United States v. Boss,* 160 F. 132, 132-33 (D. Utah 1906); *Sowards v. Meagher,* 108 P. 1112, 1114 (Utah 1910).

> The most probative evidence of congressional intent is the *statutory language used to open* the Indian lands. Explicit reference to cession *or other language* evidencing the present and total surrender of all tribal interests strongly suggests that Congress meant to divest from the reservation all unallotted opened lands. *DeCoteau v. District County Court, supra,* at 444-445; *Seymour v. Superintendent, supra,* at 355.

Solem at 470 (emphasis added).

As one would expect, both cases, as specifically cited by the Court for these two primary examples, *DeCoteau* and *Seymour,* unequivocally support the analysis. "*DeCoteau* at 444-445" specifically recounts the significance of cession terminology in reservation disestablishment and "*Seymour* at 355" *specifically* recounts the significance of public domain terminology in reservation disestablishment, in the discussion of the same 1892 *Colville* public domain statute consistently cited by everyone, including Justice Marshall, for this proposition. *Seymour* at 355; *Mattz at* 504, n.22; *DeCoteau* at 463 (Douglas, J., dissenting); *Rosebud* at 618 (Marshall, J., dissenting); *Solem* at 470. In fact, in this *Solem* citation, Justice Marshall not only adhered to his *Rosebud* dissent in recognizing "public domain" as "express language" of disestablishment, he also specifically cited the *same* statute he relied upon there. *Rosebud* at 618, n.3 (Marshall, J., dissenting).

Moreover, *Solem,* in the very next sentence, explains that when such language of cession is buttressed by "an unconditional commitment from Congress to compensate" that strong suggestion of disestablishment is transformed into an almost "insurmountable presumption." *Id.* at 470-471.

In other words, the method of compensation cannot detract from the strong suggestion of disestablishment in either instance. It can create an insurmountable presumption in favor of cession disestablishment.

Public domain language is therefore "the other language" that *Solem* sets forth, by *express* citation, in this section of the opinion addressed to operative language, "language used to open" reservations. And public domain strongly suggests disestablishment irrespective of the method of compensation.

Having said this, the *Solem* court then examined the "operative language" of the *Solem* Act, which did not contain either cession or public domain terminology. *Solem* at 472. After concluding the review of the operative language, the Court addressed the "balance of the Cheyenne River Act" which it found to be "largely consistent with" continued reservation status. *Solem* at 474-475. In this process, the Court noted that the "case" was, in fact, "made more difficult" by language (in the balance of the act) that "indirectly" supported disestablishment. *Solem* at 474-475. While the Court acknowledged that even an isolated reference to public domain was "undisputedly" evidence of disestablishment," "when *balanced against* the Cheyenne River's stated and limited goal" such isolated references could not "carry the burden of establishing an express Congressional purpose to diminish." It was in this "balance" of the Act analysis and in this context that *Solem,* in a footnote simply stated:

> Similarly, even without diminishment, unallotted opened lands could be conceived of as being in the "public domain" inasmuch as they were available for settlement.

Solem at 475.

The fundamental error of the United States, Petitioner and supporting *Amici* (as well as the en banc majority of the Court of Appeals,) is that they did not assess *Solem* in this light.

CONCLUSION

The judgment of the Utah Supreme Court should be affirmed.

Respectfully submitted,

HERBERT WM. GILLESPIE
Duchesne County Attorney
P.O. Box 206
Duchesne, UT 84021
(801) 738-2435

JESSE C. TRENTADUE
Counsel of Record
SUITTER, AXLAND & HANSON
175 South West Temple
Salt Lake City, UT 84101
(801) 532-7300

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APPENDIX

APPENDIX

H.R. Rep. No. 791, 50th Cong., 1st Sess. (1888) (LD 15)

HOUSE OF REPRESENTATIVES

50th Congress, 1st Session — Report No. 791

UINTAH VALLEY INDIAN RESERVATION

MARCH 1, 1888.—Referred to the House Calendar and ordered to be printed.

Mr. COBB, from the Committee on Indians Affairs, submitted the following

REPORT:

[To accompany bill H. R. 7936]

The Committee on Indian Affairs, to whom was referred "a bill to restore to the public domain a part of the Uintah Valley Indian Reservation, in the Territory of Utah, and for other purposes" (H. R. 1984), report as follows:

There was established, by proclamation of President Lincoln, in Utah Territory on the 3d day of October, 1861, an Indian reservation known as the Uintah Valley (see Executive orders relating to Indian reservations, extract Commissioner's report 1866, pages 358 and 359), described in the general terms as the Valley of the Uintah River, in said Territory.

By act of Congress approved May 5, 1864 (13 Stats. at Large, page 63), other Indian reservations in said

Territory were discontinued, directed to be sold in 80-acre tracts to the highest bidder, and by section 2 the Uintah Valley was set apart for the use of the Indians, and an appropriation made for the purpose of making agricultural improvements on the same for the benefit of the Indians.

Another act was pased June 18, 1878 (20 Stats. at Large, page 165), repealing the clause of the act of May 5 directing the discontinued reservations to be sold to the highest bidder, and directing the Secretary of the Interior to restore them to the public domain to be disposed of under the public-land laws.

The Interior Department had the Uintah Valley Reservation surveyed; the eastern boundary line was run by one Dubois, and is known as the Dubois line.

In 1885 this line, as well as the township lines bordering on the reservation, were, through lapse of time and other natural causes, completely lost, so that the citizens living in the neighborhood, the military officers at Fort Duchesne, and the surveyor-general of the Territory, by his deputies, were unable to know or find its exact location. No marks, corners, or stations were left to indicate where they were.

About this time certain citizens of the Territory, in prospecting for mines, found veins of "Gelsonite," which is the mineral from which "asphaltum" is deduced or manufactured, and the total supply for which in this country is brought from abroad in the vicinity of the Dead Sea, and, in good faith, believing their discovery upon the public domain, applied to the proper officers of the Government to locate the same, as provided for in the mining laws of the United States and said Territory.

The surveyor-general sent his deputy upon the ground, and, ignorant of the fact that the veins were on the reservation, he surveyed the same, and the parties proceeded

with their steps to get title and to open their mines. They were in about three miles of Fort Duchesne, and were not molested by the military in charge, whose duty it was to put them off the reservation; nor by the Indian agents in charge, because every one believed, as they did, that they were upon the public domain.

They opened up their property, and spent between $25,000 and $30,000 upon it and in opening a road across the reservation to the railroad to carry their product to market.

In 1887 Congress authorized the Utah and Midland Railroad to cross the reservation, and in making the survey for the same some of the corners of the Dubois and neighboring township lines had to be found, and a rumor was put afloat that these deposits were probably inside the Indian reservation, which rumors reached the locators, and they immediately employed the most skillful surveyor to re-run and mark the necessary lines, which was done with the utmost difficulty and expense and after months of hard labor, but, when completed, revealed the fact that the veins were about 1,000 feet inside the reservation.

Inasmuch as these deposits are the only known deposits of this mineral in the United States, and a new industry was developed by their discovery, it is deemed advisable to restore to the public domain a small portion of the reservation on which the veins are located. This action has been recommended by the present governor of the Territory, in the interest of the general public as promoting the general welfare. His views are concurred in by other prominent citizens of the Territory.

From a letter of the Commissioner of Indian Affairs, transmitted by the Secretary of the Interior, we find that the whole number of Indians on said reservation is about 900, and of this number the male adults are, of Uintah Utes, 123; White River Utes, 110, or 233 in all; that the number of acres of said reservation is 2,039,040, which

would give 8,708 acres to each male adult over eighteen years of age; that the amount asked to be restored to the public domain, and which is situated in a corner of the reservation adjoining the public domain, is 7,040, a very small and insignificant part of this great reservation; that the part asked to be restored is a sandstone desert, uninhabited, unfit for agricultural or grazing purposes, and unused by the Indians for any purpose. The affidavits of the five military officers at Fort Duchesne show also that it is utterly worthless for any purpose to the tribes.

In speaking of the propriety of restoring it, the Commissioner of Indian Affairs says:

> As to the propriety of passing such a bill, I would say that if the Indians do not make any use of the lands and are not likely to for any purpose, and are perfectly willing for it to be cut off and opened to the use, occupancy, and benefit otherwise of the whites, I do not know there would be any serious objection to the segregation of the tract in question.

While the Commissioner does not recommend it, he sees no objection if the conditions he states exist, and in his views the Secretary concurs. We find they do exist, and see no reason why it should not be restored, as it is of no value to and is not used by the Indians, and will add greatly to the wealth and prosperity of the Territory and of the country.

The location is peculiarly favorable to restoration, as the Indians live upon the rich and fertitle valleys of the Uintah River and its tributaries, and seldom, if ever, cross this small corner. Fort Duchesne lies between them and the deposits, and we believe, as the Commissioner says, that the liability to controversy with the whites will not be increased by its restoration.

The policy of the Government from its earliest days has been to restore Indian reservations or portions thereof to the public domain as the exigencies of advancing popu-

lation required it. In doing so it has equitably cared for the Indians, who held a quasi title to the land, and for such settlers who in good faith had improved and were occupying any portion thereof, believing it to be the public domain. We append the letter of Hon. S. M. Stockslager, Acting Commissioner of the General Land Office, and refer to it for further information on this subject.

The roads built by these parties across the reservation and the furnishing of mineral as return freight to the railroad will enable the Government to get its Army and Indian supplies upon the reservation at greatly-reduced costs.

Believing, therefore, that it is to the best interests of the Government, the Territory, and the Indians that this small tract of land, valuable alone for the mineral deposit, should be restored, we report a bill for that purpose. Believing that the parties who discovered these deposits and attempted to locate acted in good faith, they should be given, as is customary in the restoration of all reserved lands, priority for their claims. We have so provided in the bill. We also have provided that whatever is realized from the disposition of the lands shall be paid into the trust fund established for the Indians, so they will be more than equitably compensated for their loss. As there were some errors in the bill submitted, we report the accompanying bill upon the subject, and recommend its passage.

Excerpts from 19 Cong. Rec. (1888) (LD 16)

CONGRESSIONAL RECORD—HOUSE
MARCH 10

[192] UINTAH VALLEY INDIAN RESERVATION

Mr. PEEL. I call up for consideration the bill (H. R. 7936) to restore to the public domain a part of the Uintah Valley Indian reservation, in the Territory of Utah, and for other purposes.

The bill was read, as follows:

Be it enacted, etc., That so much of the Uintah Valley Indian reservation, in the Territory of Utah, established by proclamation of the President, of date October 3, 1861, as lies within the following boundary, namely: Beginning at mile-post numbered 19, Du Bois's survey, from the initial point established in township 8 south, range 20 east, Salt Lake meridian; thence southerly to the northeast corner of township 2 south, range 1 east, Uintah special meridian; thence south along the east boundary of township 2 south, range 1 east, Uintah special meridian, to the southeast corner of township 2 south, range 1 east, Uintah special meridian; thence east along the north boundary of township 3 south, range 2 east, Uintah special meridian, to its intersection with the east boundary of the Uintah Indian reservation, thence in a northwest direction with the eastern boundary line of said reservation to the beginning, be, and the same is hereby, declared to be public lands of the United States and restored to the public domain.

SEC. 2. That said lands shall be disposed of as other public lands of like kind in accordance with existing laws (except the homestead law shall not apply), and for not less than $1.25 per acre, and not otherwise than for cash entries; *Provided*, That

any location, entry, or entries, mineral or non-mineral, heretofore made or attempted to be made on said lands, or any part thereof, by any qualified person, shall bear date and be allowed the same as if said lands had been public lands at the time of said attempted location or institution of said proceedings, but said mineral entries shall not be completed except upon the payment of $20 an acre, or at that rate for the amount taken up by the claim: *And provided further*, That all moneys arising from the sales of this land shall belong to said Indians and be paid into the Treasury of the United States and held or added to any trust funds of said tribes now there.

SEC. 3. That the Secretary of the Interior shall submit this act to the adult male Indians on said reservation, and the restoration shall take effect on a ratification by three-fourths thereof.

* * * *

Mr. HOLMAN. Mr. Speaker, this bill contains unusual provisions in regard to the disposal of this 7,000 acres of land. The copies of the bill have been exhausted, I understand, and I am not able to speak with certainty as to the exact number of acres and have to rely upon memory for that; but I understood that the total reservation embraces some two and a quarter million of acres.

Mr. PEEL. But this only relates to 7,040 acres.

Mr. HOLMAN. I am aware of that; but I am speaking of the whole of this reservation. Of that reservation this strip embracing 7,040 acres is affected by the present bill.

Now, this bill is for the benefit of the miners, who, in violation of law, have taken possession of that strip of land for mining purposes; and the statement is made that the land is not valuable for agriculture—the Indians occupying the valleys and streams within the remaininder of the reservation. I think in such a case as this, notwith-

standing the rapidity with which we are exhausting the reservations, for already during this session we have withdrawn from reservations lands to the extent of 29,000,000 of acres in the two reservations which have been before the House; but in this case, where the lands are really valueless except for mining purposes, it seems to me there is some justice in the line of policy adopted. But surely in such case the people who have trespassed upon the lands and found them valuable ought to pay for their value.

Mr. PEEL. They are required to pay $20 an acre.

Mr. HOLMAN. When it comes to the matter of agricultural lands the case seems to be different, for there the high public policy of securing homes for the people must be considered in connection with the established rights of the Indians, and where it can be done without injustice it seems to me that these lands ought to be brought within the reach of that rapidly increasing body of our people who are without homes. Here, however, we are not embarrassed by anything of that kind, for this is merely a question of securing to certain parties the benefits of mines discovered by them within the limits of an Indian reservation. I understand the mines are located at a distance of about a thousand feet inside of the line.

But, sir, I wish to call attention to the second section of the bill. The last clause of the first section declares—

That the land—

Describing it—

> is hereby declared to be public lands of the United States and restored to the public domain.

That raises the point to which I wish to call the attention of my friend from Arkansas, the chairman of the Committee on Indian Affairs. That has not been our policy heretofore when we have taken any portion of these Indian reservations and directed their sale and the proceeds to be invested for the benefit of the tribes. In such cases we have not heretofore made the lands a part of the

public domain, I will suggest to my friend, for the reason that the lands belonging to the public domain are lands belonging to the United States—not lands held in trust for the benefit of the Indians, but belonging actually to the United States, to be appropriated and disposed of under the public laws.

Mr. NELSON. Will the gentleman permit me to interrupt him?

Mr. HOLMAN. Certainly.

Mr. NELSON. I want to call the attention of the gentleman from Indiana, in this connection, if he will allow me, to the fact that in the Montana bill which we passed—the first bill passed the other day—the effect of the legislation there was to throw all that mass of lands open to the public under the general land laws of the United States precisely as this does, only that here is a limitation upon that. In the former case there was no limitation.

Mr. HOLMAN. Ah, but my friend misapprehends my point. In [1928] that case we bought the lands outright. We did not hold that land in trust for the benefit of the Indians, but as a part of the public property, having bought the lands from the Indians and paid for them, in which case the public-land laws of course would apply just exactly as when we acquire lands from Russia or from any other government. They become part of the public domain. If we buy them from the Indians, paying them a fair valuation for them, of course the general land laws would apply. But there we are selling the lands belonging to the Indians for the benefit of the tribe—these Utes—and we are not proposing to divest them of the title, but our proposition is to sell them as their trustee for their benefit, and pay the money into the Treasury, to be invested for their benefit. So it does not become in any sense a part of the public domain.

But further—and my friend will see from the reading of the next section that that position is strengthened by the language used:

That said lands shall be disposed of as other public lands of like kind in accordance with existing laws (except the homestead law shall not apply)—

Now, I do not well see how the general laws can apply there—there is the pre-emption law and other laws.

Mr. PEEL. If the gentleman will permit me to interrupt him, I think I can explain. In this case the evidence is clear that it is sandy, desert land and wholly unfit for agricultural purposes, and clearly the homestead laws would be of no use to anybody. Nobody would want the lands under that law, and therefore it was inserted as a limitation and the price fixed at $1.25 per acre.

Mr. HOLMAN. That is entirely proper. I am agreeing to that, but that the homestead law can not apply to the desert land. We are holding these lands in trust for them. However, I will continue to read from the bill:

and for not less than $1.25 per acre, and not otherwise than for cash entries: *Provided*—

Mr. PEEL: Permit me to interpret to say further that that is exactly the reason why we put $1.25 an acre upon the lands, because we held the land in trust for the Indians and desired to realize that much for them, at least.

Mr. HOLMAN. Of course that is the effect of the provision; but this proviso is as follows:

Provided, That any location, entry, or entries, mineral or non-mineral, heretofore made or attempted to be made on said lands, or any part thereof, by any qualified person, shall bear date and be allowed the same as if said lands had been public lands at the time of said attempted location or institution of said proceedings—

That seems to be a fair provision—

but said mineral entries shall not be completed except upon the payment of $20 an acre, or at that rate for the amount taken up by the claim: *And provided further,* That all moneys arising from the sales of this land shall belong to said Indians and be paid into the Treasury of the United States and held or added to any trust funds of said tribes now there.

That seems to be proper enough. Now why should not the gentleman having charge of this bill consent to make this simply a sale of lands by the United States with the consent of the Indians for their benefit, instead of making it a portion of the public domain?

Mr. NELSON. I will explain this to the gentlemen, if he will yield to me for a moment.

Mr. HOLMAN. Certainly.

Mr. NELSON. I desire to call the attention of the gentleman from Indiana to this fact in the first place, that the *locus in quo* here is not agricultural lands, but timber lands. These are either desert or mineral or coal lands. Now, in the public-land laws of the United States we find section 2319 reads as follows:

All valuable mineral deposits in lands belonging to the United States, both surveyed and unsurveyed, are hereby declared to be free and open to exploration and purchase, and the lands in which they are found to occuption and purchase, citizens of the United States and those who have declared their intention to become such under regulations prescribed by law, and according to the local customs or rules of miners in the several mining districts, so far as the same are applicable and not inconsistent with the laws of the United States.

I read from section 2325 in regard to the price, as follows:

At the expiration of the sixty days of publication the claimant shall file his affidavit showing that the

> plat and notice have been posted in a conspicious place on the claim during such period of publication. If no adverse claim shall have been filed with the register and the receiver of the proper land office at the expiration of the sixty days of publication, it shall be assumed that the applicant is entitled to a patent upon the payment to the proper officer of $5 per acre, and that no adverse claim exists; and thereafter no objection from third parties to the issuance of a patent shall be heard, except it be shown that the applicant has failed to comply with the terms of this chapter.

I desire to call the gentleman's attention to that provision of the statute.

Mr. HOLMAN. I know it quite well.

Mr. NELSON. The payment is $5 an acre for gold and silver and $20 an acre for coal lands.

Mr. HOLMAN. Twenty dollars is the maximum.

Mr. NELSON. Section 2347 is as follows:

> SEC. 2347. Every person above the age of twenty-one years, who is a citizen of the United States, or who has declared his intention to become such, or any association of persons severally qualified as above, shall, upon application to the register of the proper land office, have the right to enter, by legal subdivisions, any quantity of vacant coal lands of the United States not otherwise appropriated or reserved by competent authority, not exceeding 160 acres to such individual person, or 320 acres to such association, upon payment to the receiver of not less than $10 per acre for such lands, where the same shall be situated more than 15 miles from any completed railroad, and not less than $20 per acre for such lands as shall be within 15 miles of such road.

There is there a new mineral substance which has been discovered in this country for the first time. The asphaltum which has been used here has been brought from the

Dead Sea hitherto. This is the only quarry in the country, and it may be a question whether the land containing this new product comes under the head of mineral or coal land. We make them pay under this bill the highest price the Government asks under the general law for coal lands.

Mr. HOLMAN. That seems to me very fair, and yet my friend must perceive that this bill is subject to the criticism that these lands are not intended to be restored to the public domain. I think the bill should have simply directed the lands to be sold in a specific manner; that is, that lands not mineral could be sold for $1.25, and mineral lands up to $20, in such manner as the Secretary may prescribe. I shall, however, waive that point.

But I call the attention of my friend to another matter here. This is not a movement based upon the controlling public policy to reach lands for homes for our people. It is simply a proposition to sell lands especially valuable for minerals to persons who have entered on the lands without authority of law. I call attention to the proposition contained in the third section:

> SEC. 3. That the Secretary of the Interior shall submit this act to the adult male Indians on said reservation, and the restoration shall take effect on a ratification by three-fourths thereof.

Do we not reach a case there which is a mere matter of profit and speculation, where no question of homes to our people is involved? Does not the question present itself there as to whether these Indians should act entirely voluntarily or not? Why in a case of pure speculation exercise the great power we possess over this matter and say the action of three-fourths of the adult male Indians shall govern? In this way we put it on the grounds of tribal relations, to which we are not inclined to attach much importance. Why should not the Indians themselves be the sellers? Why should it not be provided that the Secretary of the Interior shall ascertain whether or not

the Indians wish to sell these lands?—not the majority of them, for we are abandoning the policy of observing tribal relations. If the individual Indians consent to this speculative movement in their lands, why is it not proper to authorize the Secretary of the Interior, in unmistakable terms, to prescribe the rules necessary to ascertain the wishes of the Indians?

Mr. PERKINS. Has he not that authority under this bill?

Mr. HOLMAN. The language is not very definite:

> That the Secreary of the Interior shall submit this act to the adult male Indians of said reservation, and the restoration shall take effect on a ratification by three-fourths thereof.

I suppose under that power he might prescribe any rules he thought proper.

Mr. PERKINS. That was the judgment of the committee.

Mr. HOLMAN. I know I have consumed some time in asking what are the purposes of this bill; but there is one other question which I still desire to submit to the chairman and the members of the committee. I suggest that the Indians themselves should determine each for himself whether he will sell for speculative purposes or not.

Mr. PERKINS. What amendment would you suggest?

Mr. HOLMAN. I would say let all the rest remain except the third section. My friend asked me the question why we should require all to consent? I think we should do so for two reasons. First, there is here no question of high public policy. Then we have been adopting a policy which disintegrates the tribal relations and recognizes the individual Indians; and inasmuch as that appears to be our settled policy, the unwisdom of which I think will appear finally, we should be governed by the logic of our own policy.

Mr. PERKINS. But is there not this difficulty, that the tribal relation does exist here? There has been no individual allotment, and for that reason, as you are treating with them for their tribal lands, you must treat with them as a tribe.

Mr. HOLMAN. But our policy is contemplating the other plan all the time. Every legislative act that we have passed for the last two or three years looks in that direction.

Mr. PERKINS. Certainly, after allotments are made.

Mr. PEEL. Mr. Speaker, one reason why I think it is unnecessary to ask the consent of all these Indians individually is that if that were required then there would be no need for Congressional interference at all. Another is that they do not own the lands. They have a right only to possession and occupancy.

Mr. PERKINS. And it is a tribal occupation.

Mr. PEEL. And it is a tribal occupation, as my friend from Kansas [Mr. PERKINS] suggests. The evidence conclusively shows that these miners discovered, located, and developed this mining interest in good faith, honestly believing that it was upon the public domain. This, therefore, is designed as a mere matter of equity to protect them in a discovery that has certainly been encouraged by the public policy of this Government. Let me say further to my friend from Indiana [Mr. HOLMAN] that the Indian Bureau and the Secretary of the Interior have approved the provisions of this bill by a special letter which is in the possession of my colleague on the committe [Mr. COBB], who reported the bill, and to whom I now yield the floor in support of it.

Mr. COBB. Mr. Speaker, after listening to the remarks of the [1929] gentleman from Indiana [Mr. HOLMAN], I fail to understand exactly what he wants. If I can have his attention for a few moments I will try to ascertain what he wants, which I have not been able to do from his speech. Has the gentleman any objection to the bill?

Mr. HOLMAN. I have the objections I have mentioned. But the bill, of course, can not be amended from my point of view without being entirely redrawn. I do not think these lands ought to be restored to the public domain, but as a matter of fact they are not to be restored, and I waive that point because the bill itself shows upon its face that these lands are to be sold in trust for the benefit of these Indians and not restored to the public domain. They are not made subject to any of the general laws applicable to the public domain. It is simply provided that they shall be sold, the parts of them that are not mineral lands, at $1.25 an acre, and the parts that are mineral lands at $20 an acre, for the benfit of the Indians. My friend [Mr. COBB] will see, therefore, that that portion of the bill which contemplates the restoration of the lands to the public domain is hardly in harmony with the general principles of the bill, but I waive that, because the general purpose will be accomplished.

Mr. COBB. Why dwell upon it, then, if the gentleman waives it?

Mr. HOLMAN. Yes, I waive it.

Mr. COBB. Well, there has been a good deal of talk over it.

Mr. HOLMAN. Yes, I know there has been a good deal of talk, and I think there ought to be a little more talk about these bills. A proposition of this kind, opening up these Indian lands for speculation, is one that I think ought to arrest considerable attention. You gentlemen who are members of the Committee on Indian Affairs are of course much more familiar with these matters than members of the House generally, upon whom they are sprung at the spur of the moment. Therefore you can not complain if some of us occupy a little time in trying to ascertain what we are doing. I think there ought to be added to the third section of the bill a provision that "the Secretary of the Interior shall prescribe rules for ascertaining the wishes of the said Indians, so as to have a

fair expression of their wishes touching the disposition of said lands."

Mr. PERKINS. I think there will be no objection to that.

Mr. COBB. I suppose not. So far as that is concerned, however, it is already in the bill.

Mr. PERKINS. Let that amendment be offered, and then we can proceed with the bill.

Mr. COBB. If that is all the change proposed by the gentleman from Indiana, I suppose we need consume no further time in this matter.

Mr. McRAE. Mr. Speaker, I have an amendment which I wish to propose to the second section. I move to strike out all after the word "as" in the first line of section 2, down to the word "for" in the third line, and to insert other language, so as to make that provision of the bill read:

> That said lands shall be disposed of at public or private sale, in the discretion of the Secretary of the Interior, for not less than $1.25 per acre.

Under the provision of the bill, and as it stands now, we make these lands subject to entry under existing laws except the homestead law, and then declare that there must be a cash entry. The phraseology I have adopted simply declares what appears to be the purpose of the bill, namely, that the land shall not be sold at less than $1.25 an acre.

Mr. COBB. I have no objection to that amendment.

The SPEAKER *pro tempore*. Let the amendment be read.

The Clerk read as follows:

> In lines 1, 2, and 3 of section 2, strike out the words "as other public lands of like kind, in accordance with existing laws except the homestead law shall not apply and," and insert the following: "At public or private sale in the discretion of the Secre-

tary of the Interior." So that if amended as proposed the first part of section will read:

"That said lands shall be disposed of at public or private sale, in the discretion of the Secretary of the Interior, for not less than $1.25 per acre," etc.

Mr. HOLMAN. It may be that, in spite of the information we posess, a portion of this land is adapted to agriculture; and I wish to suggest a provision that these lands which are to be sold at not less than $1.25 an acre shall be sold in quantities not exceeding a quarter-section to any one purchaser. Does the gentleman from Alabama [Mr. COBB] object to that?

Mr. COBB. I do not know that I have any objection, but I would like to hear the amendment read.

The Clerk read as follows:

After the amendment last adopted, insert the following: "In quantities not exceeding one quarter of a section to any one purchaser."

Mr. COBB. Does the gentleman from Indiana limit the amendment to agricultural lands?

Mr. HOLMAN. It is limited necessarily to the lands which are to be sold at $1.25 an acre. The residue of the land would be goverened by the mineral-land law.

Mr. COBB. I do not know that I understand exactly the object of the gentleman. Will he please explain the amendment more fully? We may accept it.

Mr. HOLMAN. The purpose of the amendment is that the non-mineral lands—those which are to be sold at $1.25 an acre—shall be sold in quantities not exceeding a quarter-section to a single purchaser. The other lands —the mineral lands—would of course be governed by the mineral-land law. The mineral lands we do not expect to sell at $1.25 an acre, but at $20 an acre.

Mr. COBB. May not the gentleman's amendment have the effect of withdrawing all this land from the operation of the mineral-land law?

Mr. HOLMAN. I think that is prevented by the express terms of the amendment. This amendment applies to lands which are to be sold at $1.25 an acre. The provision with reference to mineral lands comes afterward. You do not intend to have mineral lands sold at $1.25 an acre?

Mr. COBB. I have very grave doubts whether the gentleman, by these amendments, is not interfering with the interests of the Indians whom we are trying to protect. This bill has received mature consideration at the hands of the Committee on Indian Affairs. We have endeavored to protect the interests of these Indians. The gentleman from Indiana, without having seen the bill before, comes in and proposes to cut into it here and there, seemingly without regard to the effect his amendments may have upon the interests of the Indians concerned.

Mr. HOLMAN. Let the section be read with my proposed amendment.

The section as proposed to be amended was read.

Mr. HOLMAN. To render the meaning absolutely certain, an additional clause is perhaps necessary. I move to amend so that the third line will read, "and the non-mineral land for not less than $1.25 per acre."

Mr. COBB. We accept that amendment.

The SPEAKER *pro tempore* (Mr. MCMILLIN). The present occupant of the chair is informed there is already an amendment pending.

Mr. NELSON. I ask that it be read.

The Clerk read as follows:

After the words "Secretary of the Interior" in the amendment last adopted, insert "in quantities not exceeding one-quarter of a section to any one purchaser."

The amendment was agreed to.

The SPEAKER *pro tempore*. The question now recurs on the amendment last offered by the gentleman from Indiana.

The amendment was agreed to.

Mr. HOLMAN. I now move to add to the third section the language which I ask the Clerk to read.

The Clerk read as follows:

> And the Secretary of the Interior shall prescribe rules for ascertaining the wishes of said Indians and to secure their free action touching the proposed disposal of said lands.

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. COBB moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

* * * *

CONGRESSIONAL RECORD—SENATE
MAY 7

[3776] UINTAH VALLEY INDIAN RESERVATION

Mr. JONES, of Arkansas. I wish to ask unanimous consent that the pending order be laid aside to take up House bill 7936, Calendar No. 1212, for the purpose of passing the bill.

Mr. REAGAN. If it will lead to no debate I will yield.

The PRESIDING OFFICER. Pending the regular order, the Senator from Arkansas asks unanimous consent that the bill referred to by him may be considered by the Senate. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H.R. 7936) to restore to the public domain a part of the Uintah Valley Indian reservation, in the Territory of Utah, and for other purposes.

The bill was reported from the Committee on Indian Affairs with amendments, in section 2, line 3, after the word "Interior" to insert "and upon his order;" and in line 6, after the word "cash," to strike out "entries;" so as to read:

> SEC. 2. That said lands shall be disposed of at public or private sale in the discretion of the Secretary of the Interior, and upon his order, in quantities not exceeding one-quarter of a section to any one purchaser—the non-mineral land for not less than $1.25 per acre, and not otherwise than for cash.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. COCKRELL. I suggest that there be a conference on the bill.

Mr. JONES of Arkansas. I move that the Senate insist on its amendments and ask for a conference with the House of Representatives thereon.

The motion was agreed to.

By unanimous consent, the Presiding Officer was authorized to appoint the conferees on the part of the Senate, and Mr. DAWES, Mr. JONES, of Arkansas, and Mr. BOWEN were appointed.

* * * *

CONGRESSIONAL RECORD—HOUSE

[3821] UINTAH INDIAN RESERVATION

The SPEAKER also laid before the House the bill (H.R. 7936) to restore to the public domain a part of the Uintah Indian reservation in the Territory of Utah,

and for other purposes, with the amendments of the Senate thereto.

Mr. PEEL. Mr. Speaker, the amendments simply change the phraseology and do not alter the sense of the bill at all. I therefore ask unanimous consent that they be concurred in.

The SPEAKER. The amendments will be read.

The amendments were read, as follows:

Page 1, line 20, after the word "Interior," insert "and upon his order."

Page 2, line 1, after the word "cash," strike out "entries."

Mr. PEEL. The Committee on Indian Affairs have formally passed on the amendments this morning, and I now move that they be concurred in.

The amendments of the Senate were concurred in.

* * * *

S. Rep. No. 1198, 50th Cong., 1st Sess. (1888) (LD 17)

SENATE

50th Congress, 1st Session. Report No. 1198

IN THE SENATE OF THE UNITED STATES

MAY 3, 1888.—Ordered to be printed

Mr. JONES, of Arkansas, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany bill H. R. 7936.]

The Committee on Indian Affairs of the House, during this Congress, made a report upon this bill in which the material facts seem to be fairly stated, and we adopt the same.

Your committee recommend that the bill pass after amending it, in line 3 of section 2 of said bill, by inserting after the word "Interior" the words "and upon his order," and in line 6, same section, strike out the word "entries."

[House Report No. 791, Fiftieth Congress, first session.]

The Committee on Indian Affairs, to whom was referred "a bill to restore to the public domain a part of the Uintah Valley Indian Reservation, in the Territory of Utah, and for other purposes" (H. R. 1984), report as follows:

There was established, by proclamation of President Lincoln, in Utah Territory on the 3d day of October, 1861, an Indian reservation known as the Uintah Valley (see Executive-orders relating to Indian reservations, extract Commissioner's report 1866, pages 358 and 359), described in the general terms as the Valley of the Uintah River, in said Territory.

By act of Congress approved May 5, 1864 (13 Stats. at Large, page 63), other Indian reservations in said Territory were discontinued, directed to be sold in 80-acre tracts to the highest bidder, and by section 2 the Uintah Valley was set apart for the use of the Indians, and an appropriation was made for the purpose of making agricultural improvements on the same for the benefit of the Indians.

Another act was passed June 18, 1878 (20 Stats. at Large, page 165), repealing the clause of the act of May 5 directing the discontinued reservations to be sold to the highest bidder, and directing the Secretary of the Interior to restore them to the public domain to be disposed of under the public-land laws.

The Interior Department had the Uintah Valley Reservation surveyed; the eastern boundary line was run by one Dubois, and is known as the Dubois line.

In 1885 this line, as well as the township lines bordering on the reservation, were, through lapse of time and other nautral causes, completely lost, so that the citizens living in the neighborhood, the military officers at Fort Duchesne, and the surveyor-general of the Territory, by his deputies, were unable to know of or find its exact location. No marks, corners, or stations were left to indicate where they were.

About this time certain citizens of the Territory, in prospecting for mines, found veins of "Gelsonite," which is the mineral from which "asphaltum" is deduced or manufactured, and the total supply for which in this country is brought from abroad in the vicinity of the Dead Sea, and, in good faith, believing their discovery upon the public domain, applied to the proper officers of the Government to locate the same, as provided for in the mining laws of the United States and said Territory.

The surveyor-general sent his deput upon the ground, and, ignorant of the fact that the veins were on the reservation, he surveyed the same, and the parties proceeded with their steps to get title and to open their mines. They were in about 3 miles of Fort Duchesne, and were not molested by the military in charge, whose duty it was to put them off the reservation; nor by the Indian agents in charge, because every one believed, as they did, that they were upon the public domain.

They opened up their property, and spent between $25,000 and $30,000 upon it and in opening a road across the reservation to the railroad to carry their product to market.

In 1887 Congress authorized the Utah and Midland Railroad to cross the reservation, and in making the same some of the corners of the Dubois and neighboring township lines had to be found, and a rumor was put afloat that these deposits were probably inside the Indian reservation, which rumors reached the locators, and they immediately employed the most skillful surveyor to rerun and mark the necessary lines, which was done with the utmost difficulty and expense and after months of hard labor, but, when completed, revealed the fact that the veins were about 1,000 feet inside the reservation.

Inasmuch as these deposits are the only known deposits of this mineral in the United States, and a new industry was developed by their discovery, it is deemed advisable to restore to the public domain a small portion of the reservation on which the veins are located. This action

has been recommended by the present governor of the Territory in the interest of the general public as promoting the general welfare. His views are concurred in by other prominent citizens of the Territory.

From a letter of the Commissioner of Indian Affairs, transmitted by the Secretary of the Interior, we find that the whole number of Indians on said reservation is about 900, and of this number the male adults are, of Uintah Utes, 123; White River Utes, 110, or 233 in all; that the number of acres of said reservation is 2,039,040, which would give 8,708 acres to each male adult over eighteen years of age; that the amount asked to be restored to the public domain, and which is situated in a corner of the reservation adjoining the public domain, is 7,040, a very small and insignificant part of this great reservation; that the part asked to be restored is a sandstone desert, uninhabited, unfit for agricultural or grazing purposes, and unused by the Indians for any purpose. The affidavits of the five military officers at Fort Duchesne show also that it is utterly worthless for any purpose to the tribes.

In speaking of the propriety of restoring it, the Commissioner of Indian Affairs says:

"As to the propriety of passing such a bill, I would say that if the Indians do not make any use of the lands and are not likely to for any purpose, and are perfectly willing for it to be cut off and opened to the use, occupancy, and benefit otherwise of the whites, I do not know there would be any serious objection to the segregation of the tract in question."

While the Commissioner does not recommend it, he sees no objection if the conditions he states exist, and in his views the Secretary concurs. We find they do exist, and see no reason why it should not be restored, as it is of no value to and is not used by the Indians, and will add greatly to the wealth and prosperity of the Territory and of the country.

The location is peculiarly favorable to restoration, as the Indians live upon the rich and fertile valleys of the Uintah River and its tributaries, and seldom, if ever, cross this small corner. Fort Duchesne lies between them and the deposits, and we believe, as the Commissioner says, that the liability to controversy with the whites will not be increased by its restoration.

The policy of the Government from its earliest days has been to restore Indian reservations or portions thereof to the public domain as the exigencies of advancing population required it. In doing so it has equitably cared for the Indians, who held a quasi title to the land, and for such settlers who in good faith, had improved and were occupying any portion thereof, believing it to be the public domain. We append the letter of Hon. S. M. Stockslager, Acting Commissioner of the General Land Office, and refer to it for further information on this subject.

The roads built by these parties across the reservation and the furnishing of mineral as return freight to the railroad will enable the Government to get its army and Indian supplies upon the reservation at greatly reduced costs.

Believing, therefore, that it is to the best interests of the Government, the Territory, and the Indians that this small tract of land, valuable alone for the mineral deposit, should be restored, we report a bill for that purpose. Believing that the parties who discovered these deposits and attempted to locate acted in good faith, they should be given, as is customary in the restoration of all reserved lands, priority for their claims. We have so provided in the bill. We also have provided that whatever is realized from the disposition of the lands shall be paid into the trust fund established for the Indians, so they will be more than equitably compensated for their loss. As there were some errors in the bills submitted, we report the accompanying bill upon the subject, and recommend its passage.

Act of May 24, 1888, 25 Stat. (LD 18)

[157] CHAP. 310.—An act to restore to the public domain a part of the Uintah Valley Indian Reservation, in the Territory of Utah, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That so much of the Uintah Valley Indian Reservation, in the Territory of Utah, established by proclamation of the President, of date of October third, eighteen hundred and sixty-one, as lies within the following boundrey, namely: Beginning at mile-post numbered nineteen, DuBois' survey, from the initial point established in township eight south, range twenty east, Salt Lake meridian; thence southerly to the northeast corner of township two south, range one east, Uintah special meridian; thence south long the east boundary of township two south, range one east Uintah special meridian, to the south-east corner of township two south, range one east, Uintah special meridian; thence east along the north boundary of township three south, range two east, Uintah special meridian, to its intersection with the east boundary of the Uintah Indian Reservation, thence in a northwest direction with the eastern boundary line of said reservation to the beginning, be, and the same is hereby, declared to be public lands of the United States and restored to the public domain.

SEC. 2. That said lands shall be disposed of at public or private sale in the discretion of the Secretary of the Interior, and upon his order, in quantities not exceeding one quarter of a section to any one purchaser, the non-mineral lands for not less than one dollar and twenty-five cents per acre, and not otherwise than for cash: *Provided,* That any location, entry, or entries, mineral or non-mineral, heretofore made or attempted to be made on said lands, or any part thereof, by any qualified person, shall bear date and be allowed the same as if said lands had

been public lands at the time of said attempted location or institution of said proceedings, but said mineral entries shall not be completed except upon the payment of twenty dollars an acre, or at that rate for the amount taken up by the claim: *And provided further,* That all moneys arising from the sales of this land shall belong to said Indians and be paid into the Treasury of the [158] United States and held or added to any trust funds of said tribes now there.

SEC. 3. That the Secretary of the Interior shall submit this act to the adult male Indians on said reservation, and the restoration shall take effect on a ratification by three-fourths thereof, and the Secretary of the Interior shall prescribe rules for ascertaining the wishes of said Indians and to secure their free action touching the proposed disposal of said lands.

Approved, May 24, 1888.

S. Rep. No. 450, 53d Cong., 2d Sess. (1894) (LD 27)

SENATE

53d Congress, 2d Session Report No. 450

IN THE SENATE OF THE UNITED STATES

MAY 29, 1894.—Ordered to be printed.

Mr. SHOUP, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany S. 1887.]

The Committee on Indian Affairs, to whom was referred the bill (S. 1887) providing for opening the Uncompahgre and Uintah Indian reservations, submit the following report:

This bill provides for making allotments in severalty to the Indians now occupying the Uintah and Uncompahgre reservations in Utah, and for opening to sale and settlement the reservation lands remaining after such allotments are made. The status of these reservations and the reasons for the policy indicated have been thoroughly canvassed in several reports of Congressional committees and of the various officials of the Interior Department, particularly in the report upon H. R. 6557, which is

annexed hereto and submitted as a part of this report, and to which reference is made for a statement of the facts and of the considerations which explain the various features of the proposed measure. The bill, S. 1887, is a duplicate of that reported to the House of Representatives and recommended for passage by the Committee on Indian Affairs of that body.

For the reasons stated in the report referred to, your committee is of the opinion that the bill, as amended, be favorably reported and recommend its passage.

Amend secetion 1 by adding after the word "location," in line 22:

> *And provided further,* That the stipulation contained in the treaty with the Ute Indians, ratified by act of Congress June 15, 1880, whereby the said Indians are obligated to pay for the lands allotted to them in severalty, be, and the same is hereby waived by the United States, and the allotments provided for by this act shall be made without any price to be paid or charge to be made against any funds to the credit of said Indians.

The reason for recommending this amendment is that an effort to enforce the stipulation of the treaty of 1880 at this date would doubtless cause irritation on the part of the Indians, and might provoke resistance. While under the terms of that treaty a charge of $1.25 per acre might be made against the funds of the Indians for the areas allotted to them, the fact remains that this obligation is very imperfectly, if at all, appreciated by the Indians, and that they have from their long residence upon their present reservation acquired a conviction that the lands belong to them.

In the twelve or fourteen years which have elapsed since the removal of the band from their aboriginal seat in Colorado, a new generation has come into the active management of tribal affairs, and to many of the band the treaty of 1880 is only a tradition, while occupancy of the Utah Reservation is a present fact. It is obviously quite natural, however unreasonable, that the Indians should feel themselves entitled to hold the existing reservation, and should object to making payment for the fraction of that reservation which they will be allowed to retain. Under these circumstances, it is submitted that it is a wiser policy to waive the right of the Government to payment for the lands allotted than to incur the friction, delay, and possible strife which might follow an effort to enforce the letter of the treaty.

Amend section 1, after the word "office," in line 25, by inserting—

> Patents for the tracts allotted shall be issued to the several allottees in accordance with the provisions of the act of Congress regulating allotments to Indians in severalty, approved February 8, 1887.

The addition of this provision is recommended on the ground that the bill as it stands is silent as to the issue of patents, and, in the absence of specific authority for such action, there might be doubt as to the legality of giving the allottees proper muniments of title.

Amend section 2, line 3, after the word "the," by striking out the word "homestead' 'and inserting in lieu thereof the words "general land laws, town site."

The committee are advised that much of the land on this reservation requires irrigation, and the land should, therefore, be open to entry under the desert-land act, including homestead and all other existing land laws.

Amend section 4, line 11, after the word "shall," by inserting "be concurred in by two-thirds of the male members of the tribe over the age of 18 years, and."

This provision seems necessary in order to make certain what vote of the Indians shall be regarded as expressing the will of the tribe.

[House Report No. 660, Fifty-third Congress, second session.]

The Committee on Indian Affairs, having had under consideration House bill 4511, do hereby report the accompanying bill as a substitute therefor, and recommend that it be passed.

The substitute bill provides for the appointments of a commission of three persons to allot lands in severalty to the Uncompahgre Indians within their reservation in the Territory of Utah in accordance with the treaty made with said Indians in 1880, and make subject to entry the lands not needed for such allotments. The bill also authorizes the same commission to treat with the Indians upon the Uintah Indian Reservation in Utah for the cession to the United States of such lands within said reservation not needed for allotments to the Indians.

The Uncompahgre Reservation embraces an area of 1,933,440 acres, or 3,021 square miles of land, and is occupied by 1,021 Indians, or 1,893 acres to each Indian. Of these Indians 513 are males and 508 females, according to the census of 1890.

The Uintah Reservation, which is contiguous to the Uncompahgre, contains an area of 2,039,000 acres, or 3,186 square miles, occupied by 435 Uintah Indians and 398 White River Utes, a total of 833 Indians, being 2,450 acres to each Indian.

It has been estimated by the surveyor-general of Utah that 60 per cent of the lands within each of these two reservations is suitable for agriculture and capable of irrigation.

The rights of the Indians upon the Uintah Reservation differ from those of the Indians upon the Uncompahgre Reservation. The Uncompahgre Indians have no title to any of the lands within the reservation, nothing more than the privilege of temporary occupancy. Such is the conclusion arrived at after careful investigation by the law officers of the Government. The Assistant Attorney General, Mr. Hall, in his report to the Secretary of the Interior dated October 23, 1893, says:

"As to the Uncompahgre title these Indians, with other bands of Ute Indians, were, by treaty of March 2, 1868, which was proclaimed November 6, 1868, given a portion of the Territory of Colorado for their absolute and unconditional use. These Indians had title to such lands as were thus given them in the State of Colorado, and the metes and bounds of their said reservation are set forth in said treaty of 1868 and the act ratifying the same. Subsequently, on the 6th of March, 1880, said Indians entered into an agreement with the United States whereby they ceded to the United States all their lands in the State of Colorado. This agreement was ratified by Congress on June 15, 1880 (21 Stats., 199), and subsequently, and within the time prescribed in said act of Congress, the agreements and amendments made thereto by the act of Congress were ratified by three-fourths of the male adult Indians. In the agreement of 1880 the following provision is found:

" 'The Uncompahgre to remove and settle upon agricultural lands on Grand River, near the mouth of the Gunnison River, in Colorado, if a sufficient quantity of agricultural land shall be found there; if not, then upon such other agricultural lands as may be found in that vinicity and in the Territory of Utah.'

"These Indians were not placed on the lands referred to, 'on the Grand River near the mouth of the Gunnison River in Colorado,' because a sufficient quantity of agricultural lands could not be found for that purpose; hence, they were removed to the Territory of Utah, to the lands which they now occupy.

"The agreement of 1880 provided that the lands to which these Indians were to be removed was to be surveyed and divided among them in severalty, in certain specified quantities, for which purpose a commission was

to be appointed by the President. They were removed from Colorado onto their present reservation in 1882. By executive order of January 5, 1882, the lands which they now occupy were 'withheld from sale and set apart as a reservation for the Uncompahgre Utes.'

"The act of Congress, approved June 5, 1880, which ratified the agreement with these Indians, required that the lands ceded to the United States should be disposed of as follows:

" 'None of said lands, whether mineral or otherwise, shall be liable to entry and settlement under the homestead law, and when sold the procedes of said sale shall be first sacredly applied to reimbursing the United States for all sums paid out or set apart under this act by the Government for the benefit of said Indians, and then be applied in payment for the lands, at $1.25 per acre, which may be ceded to them by the United States outside of their reservation in pursuance of this agreement.'

"It will be seen from this provision of the act of 1880 ratifying the agreement, and which was accepted by the Indians, as hereinabove stated, that the Uncompahgre Indians are to pay the United States for such lands as they may receive as allotments by virtue of said agreement, at the rate of $1.25 per acre; and that the proceeds of the sale of their lands in the State of Colorado are to be held for this purpose, as well as for reimbursing the United States all sums paid out or set apart under the act of 1880. It is clear to my mind that the Uncompahgre Utes have no title to the lands they occupy; that they occupy these lands as a temporary reservation, until such time as the President may require them by virtue of the agreement and the act of 1880 to take their allotments within the limits of said reservation. When the lands are alloted to these Indians, then they will become absolute owners of the same, with such restrictions upon the right to lease and alienate as is set out in the agreement of 1880; but until their allotments are taken and

the lands set apart for them in severalty, they have no such title to the lands as would authorize them to lease the same for any purpose."

By their agreement of March 6, 1880, these Indians agreed to accept allotments as provided in the substitute bill reported. This agreement was ratified by the act of Congress dated June 15, 1880 (21 Stat., 199). Under the agreement the Indians were to pay for the lands allotted to them at the rate of $1.25 per acre. The accompanying bill omits this requirement, allowing the Indians to receive the allotment provided for without making such payment. The Assistant Attorney-General further says:

"I do not know of any other treaty obligations of the United States to the Uncompahgre Indians, except the duty of protecting them in their title to lands whenever the lands shall be allotted to them, as provided in the first article of the agreement of March 6, 1880 (21 Stat., 199 supra):

"That the Government of the United States cause the lands so set apart to be properly surveyed, and to be divided among these said Indians in severalty in the proportion hereinabove mentioned, and to issue patents in fee simple to them respectively therefor so soon as the necessary laws are passed by Congress. The title to be acquired by the Indians shall not be subject to alienation, a lease, or incumbrace, either by voluntary conveyance of the grantee or by the judgment, order, or decree of any court, or subject to taxation of any character, but shall be and remain inalienable and not subject to taxation for the period of twenty-five years, and until such time thereafter as the President of the United States may see fit to remove the restrictions, which shall be incorporated in the patents when issued; and any contract made prior to the removal of such restrictions shall be void."

As to the Uintah Indians the Assistant Attorney-General finds that the Indians are the owners of the lands

within the reservation, because, under the act of Congress of May 5, 1864 (13 Stat., 64), it was provided that the lands within the Uintah Reservation should be "set apart for the permanent settlement and exclusive occupation of the Indians." In order, therefore, to make available for settlement any portion of the lands within the Uintah Reservation it is first necessary to obtain the consent of the Indians residing thereon. Accordingly, the bill provides that the commissioners appointed shall treat with said Indians for the purpose of obtaining a relinquishment of their title to any land not needed for allotment to Indians.

These two reservations are situated in the northeastern portion of Utah, and together embrace a tract of about 4,000,000 acres, occupied by less than 2,000 Indians, men, women, and children. The Indians, in their present condition, make no use whatever of a very large proportion of these lands, which are rich in resources and capable of sustaining a large population if reclaimed and utilized.

If the consent of the Indians upon the Uintah Reservation can be obtained, by which they will accept allotments of lands in severalty, and the remainder of the lands is sold and the proceeds derived are used for the benefit of the Indians, their condition will be much better than it is at present. These Indians have already made considerable progress toward civilization, and are entirely competent to receive lands in severalty, and are in a condition to reclaim and improve them. If the residue of the lands are settled by whites the Indians will be more directly brought in contact with civilization and be able to make greater progress by the example thus afforded them.

As to the Uncompahgre Indians, as has already been shown, they have agreed to accept lands in severalty as provided in the bill. They are in a condition to adopt this mode of life. The proceeds of the sale of their lands in Colorado now amount to more than $1,700,000. One-

half of this amount is held and applied for the benefit of the Uncompahgre Indians. The Assistant Attorney-General in his letter to the Secretary of the Interior of February 16, 1894, says:

"As to the Uncompahgre Indians, I gave it as my opinion that they occupy the lands in Utah upon which they are located as a temporary reservation. They can be required at any time, by Congress or by the President, to take their allotments in said lands. As to these Indians, I can see no reason why their consent should be asked to any disposition Congress may see proper to make of these lands after allowing them allotments as provided in the agreement and act of Congress referred to in my opinion, a copy of which is hereto attached."

The Secretary of the Interior, in his letter of March 22, 1894, addressed to the chairman of this committee, speaking in regard to the Uncompahgre Indians says:

"The confederated bands of Ute Indians, by agreement ratified by act of June 15, 1880 (21 Stat., 199), sold to the United States their reservation in Colorado and agreed to remove to other lands. It was further provided that the Indians might take allotments upon the lands to which they should remove, as follows:

" 'To each head of a family one quarter of a section, with an additional quantity of grazing land not exceeding one quarter of a section.

" 'To each single person over eighteen years of age one-eighth of a section, with an additional quantity of grazing land not exceeding one-eighth of a section.

" 'To each orphan child under eighteen years of age one-eighth of a section, with an additional quantity of grazing land not exceeding one-eighth of a section; and to each other person under eighteen years of age, now living, or who may be born prior to said allotments, one-eighth of a section, with a like quantity of grazing land.'

"It was also provided that the proceeds of the sale of the lands in Colorado ceded by said agreement should be 'first sacredly applied to reimbursing the United States for all sums paid out or set apart under this act by the Government for the benefit of said Indians, and then to be applied to payment for the lands at $1.25 per acre which may be ceded to them by the Unted States outside of their reservation, in pursuance of this agreement,' the balance to be deposited in the Treasury for the benefit of said Indians.

"Under this agreement the Indians were removed to their present location, but allotments have not been made. Afterwards, for their protection, the present reservation was designated by Executive order. It is clear that these Indians have no such title in the lands of this reservation as would entitle them to receive pay for such lands as might remain after they had taken their allotments, for which allotments they are required to pay $1.25 per acre."

In respect to the rights of the Uintah Indians the Secretary uses this language:

"With regard to the Uintah Reservation the facts are somewhat different. I concur in the opinion of the Assistant Attorney-General that these Indians have a title to the land which they occupy which should be acquired by the United States only by negotiations with them for that purpose. A commisison might properly be authorized to conduct such negotiations on the part of the Government. There is sufficient agricultural lands in this reservation to proivde allotments for all the Indians belonging there, and probably for those of the Uncompahgres who can not be provided for on their own reservation. The fact that it may be found necessary to settle some of the Uncompahgres upon the Uintah Reservation should be taken into consideration when negotiations shall be had as to the latter."

As to the method of disposing of the unallotted lands on these reservations, the Secretary of the Interior uses this language:

"The manner of disposing of the lands remaining after allotments shall have been made can be more satisfactorily determined after the question of allotments has been settled. If negotiations are to be had and any money paid to the Indians the price at which the surplus lands are to be disposed of would be affected if not controlled by the amount to be paid to the Indians. It may be thought proper, however, because of the great value of deposits of asphaltum, gilsonite, and other like substances said to abound in these lands, to make a special provision for their sale at a higher price than is usually fixed for mineral land.

"My opinion at present is that the surplus lands which are agricultural in character should be opened to settlement under the homestead laws, with a provision for payment, in addition to the regular fees, of such amount per acre as will reimburse the United States for any money agreed to be paid the Indians, and that such lands as are mineral in character shall be disposed of under the mineral laws with a like additional payment."

It will thus be seen that in the substitute bill reported the committee have taken into consideration, as nearly as could be ascertained, the rights of the Indians upon the two reservations, and have conformed, as nearly as possible, to the suggestions and recommendations of the Secretary of the Interior both as to the method of dealing with the Indians and of disposing of the lands when thrown open to settlement.

It seems quite clear to the committee, from its investigation and the information received upon the subject, that legislation should be enacted without delay looking to the adjustment of the rights of the Indians, and their settle-

ment in such way that they may make progress toward civilization, and that the great resources, agricultural and mineral, which are known to exist within these reservations, should be made subject to development.

Excerpts from 26 Cong. Rec. (1894) (LD 33)

CONGRESSIONAL RECORD—HOUSE
JUNE 30

[7032] UNCOMPAHGRE AND UINTAH INDIANS

Mr. RAWLINS. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 6557) providing for opening the Uncompahgre and Uintah Reservations in Utah.

The SPEAKER. The gentleman from Utah [Mr. RAWLINS] asks unanimous consent for the present consideration of a bill which the Clerk will report, after which the Chair will ask if there be objection to its consideration.

The Clerk read as follows:

Be it enacted, etc., That the President of the United States is hereby authorized and directed to appoint a commission of three persons, within thirty days after the passage of this act, to allot in severalty to the Uncompahgre Indians within their reservation, in the Territory of Utah, agricultural and grazing lands according to the treaty of 1880, as follows:

"Allotments in severalty of said lands shall be made as follows: To each head of a family one-quarter of a section, with an additional quantity of grazing land not exceeding one-quarter of a section; to each single person over 18 years of age, one-eighth of a section, with an additional quantity of grazing land not exceeding one-eighth of a section; to each orphan child under 18 years of age, one-eighth of a section, with an additional quantity of grazing land not exceeding one-eighth of a section; to each other person under 18 years of age, born prior to such allotment, one-eighth of a section, with a like quantity of grazing land: *Provided,* That with the consent

of said commission, any adult Indian may select a less quantity of land, if more desirable on account of location." All necessary surveys, if any, to enable said commission to complete the allotments shall be made under the direction of the General Land Office. Said commissioners shall, as soon as practicable after their appointment, report to the Secretary of the Interior what portions of said reservation are unsuited or will not be required for allotments, and thereupon such portions so reported shall, by proclamation, be restored to the public domain and made subject to entry as hereinafter provided.

SEC. 2. That the remainder of the lands on said reservation shall, upon the approval of the allotments by the Secretary of the Interior, be immediately open to entry under the homestead and mineral laws of the United States; *Provided,* That after three years' actual and continuous residence upon agricultural lands from date of settlement the settler may, upon full payment of $1.50 per acre, receive patent for the tract entered. If not commuted at the end of three years the settler shall pay, at the time of making final proof, the sum of $1.50 per acre: *Provided,* That the minimum price of mineral lands known to contain asphaltum shall be $50 per acre.

SEC. 3. That persons otherwise qualified to make entries who have, in good faith, made mineral discoveries and locations within the limits of said reservation prior to the 1st day of July, 1890, and who have complied with the law in regard to the entry and location of mineral lands as far as practicable, shall, upon the opening of said lands to entry, have the preferred right of entering their respective locations for thirty days next after such opening, but no longer.

SEC. 4. That said commission shall also negotiate and treat with the Indians properly residing upon the

Uintah Indian Reservation, in the Territory of Utah, for the relinquishment to the United States of the interest of said Indians in all lands within said reservation not needed for allotment in severalty to said Indians, and, if possible, procure the consent of such Indians to such relinquishment, and for the acceptance by said Indians of allotments in severalty of lands within said reservation, and said commissioners shall report any agreement made by them with said Indians, which agreement shall become operative only when ratified by act of Congress.

SEC. 5. That said commissioners shall receive $6 per day each, and their actual and necessary traveling and incidental expenses while on duty, and to be allowed a clerk, to be selected by them, whose compensation shall be fixed by said commissioners, subject to the approval of the Secretary of the Interior; and a sufficient sum is hereby appropriated to carry out the provisions of this act, which sum shall be reimbursed to the Treasury out of the proceeds of the sale of said lands.

The SPEAKER. Is there objection to the request of the gentleman from Utah?

Mr. DOCKERY. Mr. Speaker, I have given some examination to the bill. I am willing, as far as I am concerned, to give consent for its consideration, provided the gentleman will agree to strike out at this time, in offering the bill, section 3, and also that later on he will incorporate an amendment limiting the entire cost to $16,000.

Mr. WILLIAM A. STONE. Mr. Speaker, I should like to have some explanation of this bill before I consent to its passage. It is a very important bill.

The SPEAKER. Without objection the gentleman will make an explanation.

Mr. MCMILLIN. This is a long bill. Suppose we have the report read.

Mr. RAWLINS. I can state the purport of the bill.

Mr. LYNCH. It is quite long, and perhaps a statement of it would cover the grounds better. I am somewhat familiar with the facts.

Mr. McMILLIN. Let us hear a statement of it, and then if it is desired the report can be read.

Mr. RAWLINS. Mr. Speaker, the provisions of this bill, relate to two Indian reservations in the Territory of Uth, one the Uncompahgre Reservation and the other the Uintah Reservation.

The Uncompahgre Reservation contains 1,933,440 acres of land, and is occupied, as shown by the last census, by 1,021 Indians, or about 7,600 acres of land to each family of Indians of four persons.

These Indians formerly owned a large section of land in Colorado. In 1880, by treaty, they sold these lands to the United States. The fund to the credit of these Indians arising from the sale of this land amounts now to about $1,700,000.

By the treaty made with these Indians they were to have lands allotted to them, as provided in this bill, by a commission to be appointed by the President. If the lands allotted to them were not within their old reservation in Colorado they were to pay for the lands at the rate of $1.25 per acre. This bill simply provides for carrying out the treaty made with those Indians, and which was ratified by act of Congress, by making allotments to the Indians in exact accordance with the terms of that treaty with them. It will take about 200,000 acres of land to satisfy the allotment.

That is the extent of the provisions of the bill so far as the Uncompahgre Indian Reservation is concerned. It is held by the law department of the Government that these Indians only [7033] had the right to the temporary occupancy of this reservation, with the right to have allotments made to them according to their treaty, and this bill carries out that provision of the treaty,

As to the Uintah Reservation, that contains about 2,100,000 acres of land. It is occupied by 833 Indians, as shown by the last census. This reservation is contiguous to the Uncompahgre Reservation. The bill provides that this commission of three persons, appointed by the President, shall treat with those Indians for the cession to the United States of such portions of the land within that reservation as are not needed for allotment in severalty, and to report any agreement made with them to Congress for ratification.

Mr. CURTIS of Kansas. Will the gentleman permit me?

Mr. RAWLINS. Yes.

Mr. CURTIS of Kansas. There is an effort here, as I understand, to strike out section 3. I should like to have that explained. As I understand it, being a member of the committee, that section was put in there to protect certain innocent parties who had discovered valuable asphalt deposits upon this reservation. I should like to have the gentleman explain that. Otherwise, I can not consent to the bill being passed with that section stricken out.

Mr. RAWLINS. I would state, in regard to section 3, that prior to 1890 certain parties, before the boundaries of the Uncompahgre Reservation were actually designated, made the discovery of some asphaltum lands, and not being able to ascertain that they were within the reservation, took steps to make entries of the land in accordance with the mineral land laws of the United States, and the provision of this section was to give them a preferred right of entry for thirty days after the opening of the reservation. I would state to the gentleman from Kansas that the gentleman from Missouri [Mr. DOCKERY] made objection to this provision in the bill, on the ground that it showed some favoritism, and that he believed all people ought to have an equal chance to make entries.

Rather than have the bill delayed I preferred to consent that that section should go out, and for this reason: The

Supreme Court of the United States, in 121 United States Reports, in a case like this, arising in the Black Hills, where persons in good faith made mineral discoveries and locations within an Indian reservation, held that upon the opening of such reservation those parties would have the right to prove such act of possession prior to the opening as tending to show their possession, and such persons were given a preferred right against subsequent locators. So that, without this section, I think that those persons who have gone upon such reservations who have got an equitable right at the opening of the land would be protected.

Mr. CURTIS of Kansas. Not without a lawsuit, would they?

Mr. RAWLINS. Well, I think so. I have submitted this question to the Department, and I think they are fully protected in so far as they show that their rights have accrued in good faith.

Mr. CURTIS of Kansas. The gentleman knows this fact, that there are a large number who have made discoveries, who, have attempted to make entries, and they did it in good faith, and that such a showing was made to our Indian Committee.

Mr. RAWLINS. I am aware of that. I think those parties will be protected fully in their rights; and believing that, I prefer, rather than have this bill delayed, that it should be passed without this section. I will say that this bill is approved and recommended by the Secretary of the Interior. It is unanimously reported by the Committee on Indian Affairs to the House. It has been favorably reported by the Senate Committee on Indian Affairs, and it is an urgent matter.

Mr. WILLIAM A. STONE. May I ask the gentleman a question?

Mr. RAWLINS. Yes, sir.

Mr. WILLIAM A. STONE. How many acres belonging to the Government does this bill distribute among the Indians?

Mr. RAWLINS. It will require from 160,000 to 200,000 acres to satisfy the Uncompahgres.

Mr. WILLIAM A. STONE. Two hundred thousand acres of land belonging to the Government of the United States are to be allotted among these Indians by this bill. Is that so?

Mr. RAWLINS. Yes, in accordance with a treaty already made with the Indians, and which treaty was ratified by act of Congress.

Mr. WILLIAM A. STONE. That may all be true; but it seems to me that that is too important a thing to be done by unanimous consent; and therefore, Mr. Speaker, I will have to object.

Mr. RAWLINS. Will the gentleman agree to take up the bill, say for an hour, or some such time?

Mr. WILLIAM A. STONE. I will not object to it; but it does seem to me that a matter of such importance as 200,000 acres of land, which I suppose is certainly worth a great deal of money, ought not be disposed of in this way.

Mr. RAWLINS. Let me say to the gentleman that this bill has been indorsed by the Interior Department and the law department, and the rights of the Indians have been fully ascertained, and also the obligations of the Government. It is reported favorably by those expected to pass on the bill. It is desirable that the bill should pass now, so that this commission can go to work and accomplish what it is desired that they should accomplish during the present summer, in order that the treaty made with the Indians may be reported to Congress at the next session.

Mr. WILLIAM A. STONE. What committee reported this bill; the Committee on Indian Affairs?

Mr. RAWLINS. Yes, sir; it is unanimously reported by the Committee on Indian Affairs, and also by the Senate committee; and it is expressly recommended by the Secretary of the Interior.

Mr. LYNCH. I will say to the gentleman that these Uncompahgre Indians occupied a reservation in Colorado from 1868 to 1882, and then they were moved from that reservation in Colorado and were temporarily placed upon this reservation until a suitable location could be obtained for them.

Three tribes of them were paid at that time $1,700,000 for their lands in Colorado, with the understanding that those Indians, whenever a suitable place could be found for them, would be assigned another reservation. They were placed temporarily upon this, which contains about 2,000,000 acres; and there are about 1,000 Indians, old and young. Now, they have no right on this reservation except that of possession, because it has not been assigned to them regularly.

Mr. WILLIAM A. STONE. Mr. Speaker, I will look into this matter, but I would not like to allow the bill to pass by unanimous consent just now. It is altogether too important, as it involves 200,000 acres of land belonging to the Government.

Mr. PENDLETON of Texas. As a member of the Committee on Indian Affairs, I wish to say that there are about 2,000,000 acres of this land. Under the treaty made in 1880 the Indians will receive from 160,000 to 200,000 acres, releasing to the Government for sale 1,800,000 acres.

Mr. WILLIAM A. STONE. I will examine the bill; but for the present I object.

* * * *

CONGRESSIONAL RECORD—HOUSE
JULY 10

[7256] UNCOMPAHGRE INDIANS

The SPEAKER. The Committee on Indian Affairs is next called.

Mr. LYNCH: Mr. Speaker, I am directed by the Committee on Indian Affairs to call up the bill (H.R. 6557) providing for opening the Uncompahgre and Uintah Indian Reservation in Utah.

The SPEAKER. This bill is on the Union Calendar.

Mr. LYNCH. I ask unanimous consent that the bill be considered in the House as in Committee of the Whole.

Mr. WILLIAM A. STONE. I shall have to object. I have an amendment to propose to the bill.

Mr. LYNCH. I move that the House resolve itself into the Committee of the Whole for the purpose of considering the bill.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole on the state of the Union, for the consideration of the bill (H.R. 6557) providing for opening the Uncompahgre and Uintah Indian Reservations in Utah, with Mr. DOCKERY in the Chair.

* * * *

Mr. RAWLINS. Mr. Chairman, I ask unanimous consent that the bill be considered under the five-minute rule.

Mr. SAYERS. I desire to have an understanding before consenting to any proposition whatever with reference to the passage of the bill. If the gentleman will agree to strike out the third section and also to adopt the amendment which we have agreed upon to another clause of the bill, then I will have no objection to its passage.

Mr. HOLMAN. What is that second amendment you suggest?

Mr. SAYERS. The gentleman has the amendment.

Mr. RAWLINS. I have it, and will offer the amendment. So far as I am personally concerned, I will agree to that proposition.

Mr. SAYERS. Mr. Chairman, it is agreed that the third section of the bill may be considered as stricken out,

and the amendment that the gentleman has to a clause of the bill shall be adopted. With that understanding—

Mr. HOLMAN. That would have to be read.

Mr. WILLIAM A. STONE. I want to have something to say before this matter is agreed upon. I want to ask the gentleman if he will consent to an amendment to the first section of the bill, which I will read:

> *And provided,* That the said Indians shall pay $1.25 per acre for said land from the funds now in the United States Treasury realized from the sale of their lands in Colorado as provided by their contract with the Government.

Mr. RAWLINS. I have no objection to that amendment.

Mr. HOLMAN. That, I think, is hardly fair.

Mr. LYNCH. Is it true, Mr. Chairman, that under the treaty of 1880—

Mr. WILLIAM A. STONE. Unless that amendment is embodied in the bill I shall have to object to any unanimous consent.

Mr. LYNCH. Offer your amendment at the proper time.

Mr. WILLIAM A. STONE. Unless the gentleman shall consent to that, I shall have to object to the consideration of this bill by unanimous consent.

Mr. RAWLINS. I will consent, so far as I am concerned.

Mr. LYNCH. I am willing to take a vote of the House as to that proposition. I am entirely in favor of the proposition.

Mr. RAWLINS. I am entirely agreeable to that. It ought to be done.

[7257] Mr. LYNCH. The committee has no objection to it. I think it is a proper proposition to be submitted.

Mr. RAWLINS. Then I ask unanimous consent that the bill be considered under the five-minute rule.

Mr. CANNON of Illinois. Is this bill being considered in Committee of the Whole or in the House?

The CHAIRMAN. In Committee of the Whole.

Mr. WILLIAM A. STONE. Do I understand our friends on the committee will object to this amendment and oppose it?

Mr. LYNCH. Wait until it is offered.

Mr. WILLIAM A. STONE. We had better have the understanding now.

Mr. CANNON of Illinois. Mr. Chairman, it seems to me that there are so many agreements being made and proposed to a bill that most of us know nothing about, that it might be well to take a little time in general debate so as to allow the gentleman to explain it, and let the balance of us know what they are trying to agree about, and after they have done that we will be able to act more intelligently.

The CHAIRMAN. The Chair understands the gentleman from Illinois to object.

Mr. LYNCH. I ask that general debate be closed on the bill at quarter after 1.

Mr. CANNON of Illinois. Let us know what the bill is.

Mr. RAWLINS. Mr. Chairman, if I can have the attention for a few minutes of the members of the committee, I think I can make clear the provisions of this bill. The bill relates to two Indian reservations in the Territory of Utah; one the Uncompahgre Indian Reservation, and the other the Uintah Reservation. The Uncompahgre Reservation contains about 1,900,000 acres of land, and is occupied by 1,021 Indians, as shown by the last census. These Indians, together with two other tribes of Indians, formerly owned about 12,000,000 acres of land in the State of Colorado.

In 1880 they entered into a treaty with the United States by which they sold those lands to the Government, and these Uncompahgre Indians, about 1,000 of them, were temporarily located by proclamation of the President upon this reservation, called the Uncompahgre Reservation. By the treaty made with these Indians they

were to have an allotment of land in severalty, as provided in this bill, by a commission to be appointed by the President. They were to get this allotment instead of the reservation in Colorado, and to pay for that at the rate of $1.25 per acre.

This treaty was made with the Indians and ratified by act of Congress. The object of this bill is to carry out the provisions of that treaty with these Indians, making allotments to them in severalty. It will require, to carry out the treaty, about 200,000 acres of land, and there will be then thrown open for settlement between 1,700,000 and 1,800,000 acres. This bill provides that the agricultural lands shall be subject to entry under the homestead laws at $1.50 per acre.

Mr. CANNON of Illinois. If I understand this proposition correctly, it is that about 200,000 acres of land in this reservation in Utah are to be paid for out of the fund realized by the Indians from the sale of their reservation in Colorado.

Mr. RAWLINS. Yes, sir. That fund, amounting to about $1,700,000, is in the Treasury of the United States; and about half of it is to the credit of the Indians of the Uncompahgre Reservation.

Mr. CANNON of Illinois. And you propose to allot 200,000 acres in severalty to those Indians, for which they are to pay—

Mr. RAWLINS. One dollar and twenty-five cents an acre.

Mr. WILLIAM A. STONE. No; nothing at all, under this bill.

Mr. RAWLINS. The price would be $1.25 an acre according to the treaty; but in this bill the committee are silent—

Mr. SAYERS. You propose really to give them the land.

Mr. CANNON of Illinois. Why do better for them than the treaty provides?

Mr. RAWLINS. I am in favor of requiring the Indians to pay for these lands; I think they ought to do so; and the amendment proposed by the gentleman from Pennsylvania to accomplish that is perfectly agreeable to me.

Mr. CANNON of Illinois. And the proposition is to take the remainder and open it to homestead settlement at $1.50 an acre.

Mr. RAWLINS. Yes, sir.

Mr. CANNON of Illinois. And that is all there is in the bill?

Mr. RAWLINS. That is substantially all there is in it.

Mr. SAYERS. Oh; no; there are some other things in the bill.

Mr. RAWLINS. So much as to the agricultural lands. Now, the mineral lands are to be subject to entry under the mining laws of the United States. Under those laws a man who discovers the mineral may locate a tract not exceeding 1,500 feet in length and 600 in width, and by complying with the law and finally making payment at the rate of $10 an acre he can obtain a patent from the United States for that limited quantity. Only citizens can make these entries. Now, there has been found on this reservation the mineral known as asphaltum. This mineral, according to the best information I have been able to obtain, has been found in veins or lodes, similar to silver and other metals of that character.

Mr. HOLMAN (exhibiting a specimen). Here is a specimen of the asphaltum.

Mr. RAWLINS. Yes, sir. Now, this bill provides that these asphaltum lands may be located under the mining laws; that is to say, the man who discovers the mineral may locate a tract not exceeding 1,500 feet one way and 600 feet the other. It is provided in the bill that the minimum price per acre for this land shall be $50. The price for ordinary mineral lands under the existing law is $10 an acre; but the committee thought—and such was the suggestion of the Secretary of the Interior and the

officers of the Land Department—that $50 would be about the right price for these lands.

The third section of the bill, to which objection has been made, provides that where citizens of the United States or persons otherwise qualified have made discoveries and locations in good faith prior to 1890, and complied with the mining laws so far as practicable, they shall upon the opening of this reservation have for thirty days a preferred right to make entry on these lands.

Mr. SAYERS. I ask the gentleman to give us a full explanation of the bill on this subject which was passed by the last Congress and vetoed by the President.

Mr. RAWLINS. I will do so. I propose to state fairly every thing pertaining to this bill if I know how to do it.

The committee considered whether they ought to give these people this preferred right, and decided it should be given to persons who actually made these mineral discoveries and locations under the mining laws prior to 1890. Why? The eastern boundary of this reservation is on the Colorado line. It was not defined prior to 1890, and a few persons, probably fifteen or twenty in number, discovered these locations, located upon them and expended their money in developing the claims, being all the time ignorant of the fact that they were within the reservation, supposing themselves to be within a county or the State of Colorado.

Mr. NORTHWAY. How many of such persons are there?

Mr. RAWLINS. About fifteen or twenty altogther. I know those people well. The committee has thought proper in this bill to protect the rights of such persons. It is known that there has been a large corporation organized for the purpose of getting possession, if possible, of those asphaltum lands.

I now come to the question propounded to me by the chairman of the Committee on Appropriations [Mr. SAYERS]. In the last Congress a bill was passed by this House and Senate which cut off arbitrarily two tiers of

townships from the eastern portion of the Uncompahgre Reservation, ignoring the rights of the Indians to take allotments upon the lands; and it also contained a provision in these terms:

> *Provided,* That any mineral location heretofore made or attempted to be made on said lands, or any part thereof, by any qualified person, who shall have made the same in good faith, shall bear date and be allowed the same as if said lands had been public lands at the time of said attempted location or institution of said proceedings, but said mineral location shall not be completed except upon the payment of $20 an acre, or at that rate for the amount taken up by the claim; but no claim shall contain more than 160 acres.

You will observe, first, that that does not require the party attempting to locate to have made the discovery of the mineral land, as this bill does. Second, it does not require him to make the location at all. That provision in the mining law is well understood. The party must discover the mineral lands, he must erect his monuments, make his claim, 1,500 feet each way, and he must also define the boundaries of the claim, which must be distinctly marked on the ground, and he can not take, under the operations of this bill, to exceed 10 acres at most under the provisions of the law.

Mr. HOLMAN. And at a price of $50 per acre.

Mr. RAWLINS (continuing). But under the old bill he was only required to make an attempt at location, as the bill which was passed and vetoed by President Harrison provided, and he was also allowed to enter 160 acres and rot required to make any expenditure for the development of the land. On these grounds the President vetoed the bill.

Mr. HOLMAN. And was required to pay ony $20 per acre for the land.

Mr. RAWLINS. Yes; while this requires the payment of $50 per acre.

Mr. SAYERS. If the gentleman will permit me—

Mr. RAWLINS. Let me conclude my statement.

This bill restricts the privilege of making the location, as [7258] contemplated by the law, to the actual discoverer of the mineral deposits, and allows the location of not exceeding 10 acres, for which the party shall pay $50 per acre.

In this case these parties have complied in all respects with the provisions of the mining law and entered the lands when the boundaries of the reservation were not accurately defined. They entered upon the lands in good faith, and this third section of the bill is, in my judgment, rather a restriction than an extension of their rights and privileges, as held by the Supreme Court of the United States in the case of Noonan against the Caledonia Mining Company, where persons went on to a new reservation in the Black Hills prior to the opening of the reservation, and made entry.

Mr. SAYERS. Just in that connection can the gentleman state to the House who constitute the syndicate that are interested in the third section?

Mr. HOLMAN. If that section is proposed to be stricken out, what is the use of wasting time about it?

Mr. LYNCH. We are endeavoring to avoid giving any advantage to speculators.

Mr. SAYERS. But we wish to know who these speculators are, and what their connection is with this bill.

Mr. DOCKERY. Is it agreed that the third section shall be stricken out?

Mr. RAWLINS. I was going on to state, if the gentleman will permit me, in answer to the question which has been propounded, that so far as the third section is concerned, in my judgment, and I have carefully investigated the question, there is absolutely no syndicate involved, and the only persons interested are some fifteen or twenty citizens of Utah and Colorado.

In the last Congress a similar bill was vetoed at the request of the Gilsenite Company of St. Louis. They opposed the bill at that time and brought strong pressure to bear against it. Since then they have changed their minds in connection with the matter, for the reason that they desired to construct a railroad through the Indian reservation to a mining claim which they own and which was vitrually given to them by act of Congress passed in 1881.

Mr. NORTHWAY. Let me ask the gentleman, if the third section is not inserted in the bill, whether whatever rights these parties have will not be sacrificed?

Mr. RAWLINS. Certainly, but—

Mr. SAYERS. They have no rights at all, because they are trespassers.

Mr. RAWLINS. The reason that I am willing to consent to striking it out is that under the decision of the Supreme Court of the United States, which I have already cited and which I have at hand, the people not only who located but who made entries prior to 1890, as they did in this case, are protected, as well as all persons who entered the lands in good faith, made locations, and expended money in improvements, provided they were in possession of the property at the time the reservation is open to settlement. They are protected, and the rights in my judgment, are more enlarged under that decision of the Supreme Court than they are under the third section of the bill.

Mr. BARTHOLDT. If the gentleman will allow me, since St. Louis has been mentioned, I wish to state that there is no connection whatever by anybody in St. Louis with any one of these discoveries. But I wish to say this: That if you strike out section 3, you legislate in favor of corporations and rich syndicates—

Mr. SAYERS. How?

Mr. BARTHHOLDT (continuing). Because any rich syndicate can hire a lot of toughs and through their assistance ride roughshod over the rights of the bona fide

claimants and discoverers. This section affects the rights of some twelve or fifteen poor people, and the only way to protect them is to adopt this section.

Mr. SAYERS. Now, Mr. Chairman, the statement of the gentleman from Missouri is entirely beyond and outside of the language of the third section, and I would like the gentleman to yield to me—

Mr. BARTHOLDT. I wish to make that statement clearer, if I can have time.

The CHAIRMAN. The gentleman from Utah has the floor.

Mr. SMITH of Arizona. Will the gentleman yield to me for a moment?

Mr. RAWLINS. Certainly.

Mr. SMITH of Arizona. I appreciate the motive of my friend from Texas, but it is not an unusual thing in the opening of these reservations in the Western country to find settlements made by bona fide prospectors, men seeking ore in the mountains, who have gone in and got possession by the discovery of minerals, and carried out, as far as possible, the mining laws, believing it to be public land of the United States.

Now, I quite agree with the gentleman that it is a limitation on the power, rather than broadening it or giving any syndicate a chance to steal this land. It looks to me like a limitation on their power, in the light of the decision to which the gentleman has referred, with which all men familiar with the mining laws are somewhat well acquainted. The one suggestion I wish to make to my friend from Texas [Mr. SAYERS] is this, that if these prospectors located in good faith, not knowing this to be a reservation, the lines of the reservation, subsequently covering it, they did all they could to make valid locations, and I do not think the suggestion of the gentleman is just, in the light of what has been said, when he says that a syndicate has hold of it. It seems to me the language of the bill is rather a protection of that property from syndicates, than to allow them to take possession.

Mr. SAYERS. Will the gentleman from Utah allow me five minutes?

Mr. RAWLINS. I will yield to the gentleman five minutes.

Mr. SAYERS. I desire to call the attention of the House to this bill and to show that by the very report of the committee the bill as it is now before the House ought not to pass. The committee in their report say:

> By their agreement of March 6, 1880, these Indians agreed to accept allotments as provided in the substitute bill reported. This agreement was ratified by the act of Congress dated June 15, 1880 (21 Statutes, 199). Under the agreement the Indians were to pay for the lands allotted to them at the rate of $1.25 per acre.

And yet the committee reported in favor of giving these Indians the lands for which they had stipulated, under the treaty, to pay at the rate of $1.25 an acre.

Mr. SMITH of Arizona. A mistaken idea of humanity that the House is constantly going into.

Mr. SAYERS. I ask the chairman of the Committee on Indian Affairs why he did not provide for the purchase of these lands by the Indians?

Mr. HOLMAN. Oh, well, we are adopting a very liberal policy toward these Indians. We took a large body of their lands in Colorado, and we gave them a large body of land, a very considerable body of land, but much less than they had in Colorado, a large portion of which is apparently valueless. It had been agreed that these Indians should pay for the lands assigned them in Utah $1.25 per acre. I admit that this is simply a question as to how liberal Congress should be toward that tribe of Indians.

Mr. SAYERS. Now, Mr. Chairman, when it is borne in mind that the probability is that beneath the surface of some of these lands are minerals which make them as valuable, if not more so, than any lands in the United

States, I think the committee have been exceedingly liberal to these Indians.

Mr. LYNCH. The allotments are confined to agricultural lands.

Mr. HOLMAN. They take only agricultural lands.

Mr. SAYERS. Agricultural lands provided there be a sufficient amount of them.

Mr. LYNCH. There are fifteen times as many acres of agricultural lands as will be needed for this purpose.

Mr. SAYERS. Now, let us read this section 3. If the gentleman agrees to strike it out, I will not refer to it further.

Mr. RAWLINS. I have no objection.

Mr. BARTHOLDT. I object.

Mr. RAWLINS. I suggest to the gentleman from Texas that he let that matter be voted upon by the House.

Mr. SAYERS. Let me read the section:

> SEC. 3. That persons otherwise qualified to make entries who have, in good faith, made mineral discoveries and locations within the limits of said reservation prior to the 1st day of July, 1890—

That is, persons who have gone upon lands that were reserved from location—

> and who have complied with the law in regard to the entry and location of mineral lands as far as practicable—

There was no law authorizing them to locate on any portion of these lands. No gentleman can point out a provision of any statute which authorized these men to go and locate upon them—

> shall, upon the opening of said lands to entry, have the preferred right of entering their respective locations for thirty days next after such opening, but no longer.

Now, I will call the attention of the members to a clause in the veto message of President Harrison. He says:

The object, then of this legislation is to be sought not in any public demand for these lands for the use of settlers—for if they are susceptible of that use, the Indians have a clear equity to take allotments upon them—but in that part of the bill which confirms the mineral entries, or entries for mineral uses, which have been unlawfully made "or attempted to be made on said lands." It is evidently a private and not a public end that is to be promoted. It does not follow, of course, that this private end may not be wholly meritorious, and the relief sought on behalf of these persons altogether just and proper. The facts, as I am advised, are that upon these lands there are veins or beds of asphaltum or Gilsonite, supposed to be of very great value.

Entries have been made in that vicinity, but upon public lands, which lands have been resold for very large amounts. It is not important perhaps that the United States should in parting with these lands realize their value, but it is essential, I think, that favoritism should have no part in connec [7259] tion with the sales. The bill confirms all attempted entries of these mineral lands at the price of $20 per acre (a price that is suggestive of something unusual) without reqiring evidence of the expenditure of any money upon the claim, or even proof that the claimant was the discoverer of the deposits.

The bill requires "good faith," but it will be next to impossible for the officers of the Interior Department to show actual knowledge on the part of the claimant of the lines of the reservation. The case will practicably be, as to this matter, in the hands of the claimant. But why should good faith at the moment of attempting the entry, without any requirement of expenditure, and followed, it may be, within twenty-four hours by actual notice that he was upon a reservation, give an advantage in the sale of these lands that may represent a very large sum of money?

That is what President Harrison said when he vetoed a bill similar to the third clause in the bill.

Mr. LYNCH: Mr. Chairman, I want to say that section 3 was inserted as a matter of justice and right, and with abundant precedent. It came to the knowledge of the committee that about the year 1889 or 1890 this asphalt mineral was discovered by prospectors, men of nerve and energy, who went there of their own accord, believing they were on the public lands. They made their discoveries in good faith, marked out their mineral allotments, and recorded their entries in Colorado, believing the land was in that State.

Afterwards it was discovered that the State line between Colorado and Utah ran further east, and they were found to be on this reservation. That was the condition of things as represented to the committee. It was also represented that there were not exceeding eight, ten, or fifteen, at the outside, of these discovers.

By striking out this section you deprive those brave, hardy discoverers of the fruits of their honest labor and luck, and that without any justification.

The committee thought as a matter of good faith, as a matter of justice, and as a reward for their having made this discovery, by which this country has been benefited millions of dollars, the rights of these men should be protected; I am willing to limit the number of these men to twenty-five. There is not that number, but to be safe, from all the information of the committee, that number would cover all meritorious entries.

Mr. SAYERS. You say there are ten or fifteen? Why should you desire to limit it to twenty-five?

Mr. LYNCH. I would be willing to limit it to fifteen of the early discoverers. Our information is of a less number.

Mr. WARNER. Will the gentleman allow me to ask him a question.

Mr. LYNCH. Certainly.

Mr. WARNER. May I ask if the amount of money that the United States will get in any case is at all affected by this amendment?

Mr. LYNCH. Not at all.

Now, as to the other proposition about their having that land. It is a matter of indifference to the committee what action the House may take. These Indians were placed upon that land in 1880. They have lived there continuously since. They regard that as their own property. They are self-sustaining. They are not costing the Government a dollar, and it was the opinion of the committee that, with the belief resting in the minds of these Indians that they owned that land, that in disposing of them it was reasonable and fair to say to them, "Go and take your allotments of 200,000 acres out of 1,900,000, and go and support yourselves out of what you have." If we take pay for land out of the moneys they have, it makes them all the more liable to come back on the Government for support. It was the judgment of the committee that so long as this tribe was self-sustaining it was in the interest of harmony to treat them in this way.

That was the reason for the action of the committee. The committee is wholly indifferent, and is perfectly willing to take the judgment of the House as to whether they shall pay for the land or not. None of us care a straw one way or the other except in the interest of peace and fair play, because by taking that land and requiring them to make payment for it, it might make a disturbance that would cost very much more than it would to give them the land.

Mr. CANNON of Illinois. How much is there in the Treasury to the credit of these Indians under the treaty made for the purchase of their former reservation?

Mr. LYNCH. Seventeen hundred thousand dollars, which belongs to the three tribes—about 2,000 persons.

Mr. CANNON of Illinois. What part of it belongs to these Indians?

Mr. LYNCH. Nearly half.

Mr. CANNON of Illinois. Eight hunrded and fifty thousand dollars, under the treaty.

Mr. LYNCH. Perhaps.

Mr. CANNON of Illinois. I want to see if I understand the matter right. They parted with their Colorado land for eight hundred and odd thousand dollars?

Mr. LYNCH. Yes.

Mr. CANNON of Illinois. And agreed to pay for their allotment in severality later on in the course of time at $1.25 per acre out of the $800,000. Now, the gentleman says they are self-sustaining, and I am glad to know they are. Has the gentleman thought of the influence upon these Indians, who have manhood and who are self-sustaining, of receiving a gift, not something out of their rights under the law, for which they are subject to pay? The white fellow can not stand that very well. It would tend to demoralize him. Will it not tend to demoralize self-sustaining Indians to go and take something for nothing?

Mr. LYNCH. This is the first instance of this kind we have had in any treaty to my knowledge, or that I have heard.

Mr. SAYERS. They were paid for their land in Colorado.

Mr. HOLMAN. That was a very large body of land.

Mr. SAYERS. But they were paid for it.

Mr. HOLMAN. A mere nominal sum.

Mr. CANNON of Illinois. If the gentleman will allow me. It is not the amount of money involved. That is not the question at all, but it is the risk you run when you have a small handful of Indians, like the Navajoes in Idaho, who are self-sustaining, and who are working out their own salvation, of putting something into their hands for nothing. I say that would tend to demoralize and pauperize white people. Maybe the Indians have character enough to stand it.

Mr. HOLMAN. It will not affect the Navajoes. We are appropriating money for their support all the time.

Mr. CANNON of Illinois. And are tending to demoralize them in doing so.

Mr. LYNCH. You have either got to do that or have them liable to become a Government charge again. The land to be allotted to them is neither all good nor all bad. Millions of acres of the same kind of land ajoins this reservation which has been subject to entry for years, but no white man seems to want it even as a gift. The land is more or less mountainous, and can only be used by means of irrigation.

Mr. WILLIAM A. STONE. You have got to feed them anyhow.

Mr. LYNCH. We do not feed them. We have not paid a dollar for their support for years.

Mr. WILLIAM A. STONE. But they get the interest on this money which does feed them.

Mr. LYNCH. I am only submitting the judgment of the Committee on Indian Affairs as to the best policy to be pursued with these Indians. If the judgment of the House is different, none of us will find any fault. Whether you approve or disapprove our action is wholly immaterial to the committee. It seemed to us wise not to disturb these Indians in their rights—not to provoke any uprising such as would be liable to happen if their annual income should be decreased.

We consider that they are doing very well, and we should be satisfied to let them alone. Requiring them to pay the fixed price for that land, which is more than double its actual value, when taken as a whole, may provoke disturbances or a feeling of hostility that would in a short time cost more than the value of the lands. They sold about 6,000,000 acres in Colorado in 1880 for $800,000, and a third of that will be taken back for one-thirtieth of the quantity of land of practically the same kind and value.

Mr. RAWLINS. I ask that we now proceed to consider the amendments.

Mr. SAYERS. I desire to move to strike out the third section.

The CHAIRMAN. General debate is not closed.

Mr. RAWLINS. I ask unanimous consent that general debate be closed, and that the bill be considered under the five-minute rule.

There was no objection.

The Clerk proceeded to read the bill when—

Mr. LYNCH. I ask unanimous consent that the reading of the bill by sections be omitted, and that amendments may be offered to any part of the bill at this time.

The CHAIRMAN. As though the bill were being considered in the House?

Mr. LYNCH. Yes, sir.

There was no objection.

Mr. WILLIAM A. STONE. I offer the amendment which I send to the desk.

The Clerk read as follows:

> After the word "location," in line 22 of page 2, insert:
>
> "*And provided,* That said Indians shall pay $1.25 per acre for said lands from the fund now in the United States Treasury realized from the sale of their lands in Colorado, as provided by their contract with the Government."

The amendment was agreed to.

Mr. SAYERS. I move to amend by striking out section 3.

The question being taken, there were on a division (called for by Mr. SAYERS)—ayes 9, noes 16.

[7260] Mr. SAYERS. No quorum.

Tellers were ordered; and Mr. SAYERS and Mr. LYNCH were appointed.

Mr. RAWLINS. Rather than imperil the bill, I ask that this third section be stricken out by unanimous consent.

Mr. HOLMAN. I hope it may be agreed that the third section be stricken out. I am very confident that

under the state of the law as it has been construed by the Supreme Court, the rights of these persons, if they have any rights, will be protected at any rate. I hope there will be no objection to striking out this section.

The CHAIRMAN. Pending the count by tellers the gentleman from Indiana asks that the third section of the bill be struck out. Is there objection? The Chair hears none; and it is so ordered. The Chair will treat the amendment of the gentleman from Texas and the point of no quorum as withdrawn.

Mr. RAWLINS. I offer the amendment which I send to the desk.

The Clerk read as follows:

> Strike out all after the word "interior," in line 6, page 4, and insert in lieu thereof:
>
> "*Provided,* That the cost of executing the provisions of this act shall not exceed the sum of $16,000, which sum is hereby appropriated for that purpose out of any money in the Treasury not otherwise appropriated."

Mr. LYNCH. The committee will not object to that amendment.

Mr. PICKLER. What is the object of the amendment?

Mr. HOLMAN. I move to amend the amendment by striking out "sixteen thousand" and inserting "eight thousand."

Mr. RAWLINS. If the amendment of the gentleman from Indiana [Mr. HOLMAN] be adopted we might just as well not pass the bill. This matter was submitted to the Department for an estimate as to the amount which would be necessary; and after obtaining such an estimate, the Chairman of the Committee on Appropriations, to whom the matter was submitted, agreed on behalf of his committee that $16,000 should be the amount appropriated. By throwing open these two reservations amounting to about 4,000,000 acres of land, there will be restored to the public domain about 3,500,000 acres.

Mr. HOLMAN. Not by this bill.

Mr. RAWLINS That will be the ultimate result. It will bring into the Treasury of the United States, in my judgment, millions of dollars.

Mr. PICKLER. Is it not probable that within thirty days the filing fees will be very much larger than this sum?

Mr. RAWLINS. Unquestionably.

Mr. PICKLER. If there is any amount of land taken, that will certainly be so.

Mr. HOLMAN. Mr. Chairman—

Mr. PICKLER. I am opposed to the reduction to $8,000—

The CHAIRMAN. The gentleman from Indiana has been recognized.

Mr. HOLMAN. The expense attending the allotments of land in severalty to the Indians, and the disposal of what remains after the allotments are completed have necessarily involved very considerable expense to the Government. I have no doubt myself that $15,000 will not be required—

Mr. NORTHWAY. Then the Government will not expend it.

Mr. HOLMAN. Oh, yes it will, if appropriated.

Mr. SAYERS. I have no doubt that the whole amount will be required.

Mr. HOLMAN. But I was going on to say, in view of the opinions of members of the Committee on Indian Affairs, who have investigated this matter more fully than I have, and especially with reference to the chairman of the subcommittee, who has examined it very thoroughly and carefully—Mr. LYNCH, chairman of the subcommittee—who thinks the amount will be required, I will not press the motion. But the extravagance all along the line of this Indian business ought to be retrenched.

I withdraw the amendment.

The CHAIRMAN. Then the question is on agreeing to the amendment proposed by the gentleman from Utah, which has just been read.

The motion was agreed to.

Mr. LYNCH. I move that the committee rise and report the bill as amended favorably to the House.

The amendment was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. DOCKERY reported that the Committee of the Whole House on the state of the Union, having had under consideration the bill H. R. 6557, had directed him to report the same to the House with sundry amendments, and with the recommendation that as so amended it do pass.

Mr. LYNCH. I ask the previous question on the amendments and on the bill to its passage.

The previous question was ordered, under the operation of which the amendments were agreed to, and the bill as amended ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

On motion of Mr. LYNCH, a motion to reconsider the last vote was laid upon the table.

* * * *

Act of August 15, 1894, 26 Stat. (LD 35)

SEC. 20. That the President of the United States is hereby authorized and directed to appoint a commission of three persons to allot in severalty to the Uncompahgre Indians within their reservation, in the Territory of Utah, agricultural and grazing lands according to the treaty of eighteen hundred and eighty, as follows:

"Allotments in severalty of said lands shall be made as follows: To each head of a faimly one-quarter of a section, with an additional quantity of grazing land not exceeding one-quarter of a section; to each single person over eighteen years of age, one-eighth of a section, with an additional quantity of grazing land not exceeding one-eighth of a section; to each orphan child under eighteen years of age, one-eighth of a section, with an additional quantity of grazing land not exceeding one-eighth of a section; to each other person under eighteen years of age, born prior to such allotment, one-eighth of a section, with a like quantity of grazing land: *Provided,* That with the consent of said commission, any adult Indian may select a less quantity of land, if more desirable on account of location:" *And provided,* That the said Indians shall pay one dollar and twenty-five cents per acre for said lands from the fund now in the United States Treasury realized from the sale of their lands in Colorado as provided by their contract with the Government. All necessary surveys, if any, to enable said commission to complete the allotments shall be made under the direction of the General Land Office. Said commissioners shall, as soon as practicable after their appointment, report to the Secretary of the Interior what portions of said reservation are unsuited or will not be required for allotments, and thereupon such portions so reported shall, by proclamation, be restored to the public domain and made subject to entry as hereinafter provided.

SEC. 21. That the remainder of the lands on said reservation, shall, upon the approval of the allotments

by the Secretary of the Interior, be immediately open to entry under the homestead and mineral laws of the United States: *Provided,* That no person shall be entitled to locate more than two claims, neither to exceed ten acres, on any lands containing asphaltum, gilsonite, or like substances: *Provided,* That after three years actual and continuous residence upon agricultural lands from date of settlement the settler may, upon full payment of one dollar and fifty cents per acre, receive patent for the tract entered. If not commuted at the end of three years the settler shall pay at the time of making final proof the sum of one dollar and fifty cents per acre.

SEC. 22. That said commission shall also negotiate and treat with the Indians properly residing upon the Uintah Indian Reservation, in the Territory of Utah, for the relinquishment to the United States of the interest of said Indians in all lands within said reservation not needed for allotment in severalty to said Indians, and if possible, procure the consent of such Indians to such relinquishment, and for the acceptance by said Indians of allotments in severalty of lands within said reservation, and said commissioners shall report any agreement made by them with said Indians, which agreement shall become operative only when ratified by Act of Congress.

* * * *

H.R. Doc. No. 191, 54th Cong., 1st Sess. (1896) (LD 39)

HOUSE OF REPRESENTATIVES

54th Congress, *1st Session.* — Document No. 191

UNCOMPAHGRE INDIAN RESERVATION

LETTER

FROM

THE SECRETARY OF THE INTERIOR,

TRANSMITTING

Certain information as to the proceedings of his Department in carrying out the provisions of sections 20, 21, and 22 of an act making appropriations for expenses of the Indian Department, approved August 15, 1894; and also relating to certain lands in the Uncompahgre Indian Reservation in Utah.

FEBRUARY 1, 1896.—Referred to the Committee on Indian Affairs and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
Washington, January 30, 1896.

SIR: I have the honor to acknowledge the receipt of the following resolution of the House of Representatives, dated 16th instant:

> *Resolved,* That the Secretary of the Interior is hereby requested to inform the House in detail as to the proceedings had and expenditures made by his Department in carrying out the provisions of sections 20, 21, and 22 of an act making appropriations for current and contingent expenses of the Indian Department, etc., approved August 15, 1894; with the names and residences of commissioners appointed under the provisions of said sections; with copies of instructions given by his Department to said commissioners, and with a statement, if not incompatible with the public service, of the probable time when that provision of said sections can be executed which provides for a restoration to the public domain of certain lands within the Uncompahgre Indian Reservation, in the Territory of Utah.

In response thereto, I transmit herewith copy of a communication of the 21st instant from the Commissioner of Indian Affairs, and its inclosures, to whom the matter was referred.

I also transmit copies of the reports of the commission, referred to in the Indian Office letter, dated January 8 and December 21, 1895.

It seems from these papers that there is not within the limits of the Uncompahgre Reservation sufficient agricultural or grazing lands to provide those Indians with allotments, and that even if the lands were there the Indians will not agree to take allotments with the condition attached that they should pay $1.25 per acre therefor. These reports contain a full statement of all the facts in this matter, and contain some strong arguments in favor of relieving the Indians of the payment of $1.25 per acre for land taken by them as allotments.

I am of the opinion that further negotiations should be had with the Indians on the Uncompahgre Reservation upon the lines indicated by the Commissioner of Indian Affairs.

I transmit herewith a copy of a recent report from the acting agent in charge of these Indians, giving some fur-

ther facts as regards the present condition of affairs on these reservations.

Very respectfully,

HOKE SMITH,
Secretary.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS
Washington, January 21, 1896.

SIR: I have the honor to acknowledge the receipt, by Department reference for immediate report, of the following resolution of the House of Representatives, adopted January 16, 1896:

> *Resolved*, That the Secretary of the Interior is hereby requested to inform the House in detail as to the proceedings had and expenditures made by his Department in carrying out the provisions of sections 20, 21, and 22 of an act making appropriations for current and contingent expenses of the Indian Department, etc., approved August 15, 1894, with the names and residences of commissioners appointed under the provisions of said sections; with copies of instructions given by his Department to said commissioners, and with a statement, if not incompatible with the public service, of the probable time when that provision of said sections can be executed which provides for a restoration to the public domain of certain lands within the Uncompahgre Indian Reservation in the Territory of Utah.

In reply, I have the honor to state that under date of November 28, 1894, S. S. Scott, of Uchee, Ala., William S. Davis, of Little Rock, Ark., and Timothy A. Byrnes, of Atlantic City, N.J., were appointed commissioners "to allot lands to the Uncompahgre Indians in Utah according to the treaty of 1880, and to negotiate with the Indians of the Uintah Reservation in Utah for the relinquishment of certain lands in both cases under the provisions of the act of Congress approved August 15, 1894."

Under date of December 7, 1894, instructions for the guidance of this commission in the discharge of its duties were prepared and submitted to the Department, which instructions were approved by the Secretary December 8, 1894.

December 10, 1894, copies of these instructions were handed Messrs. Scott and Davis, and a copy mailed to Mr. Byrnes, at the Uintah Agency.

Under date of January 8, 1895, the commissioners submitted a report relative to the progress of their work on the Uncompahgre Reservation, and referred to the provisions in the act of June 5, 1880 (21 Stat. L., 199), ratifying the agreement with the Ute Indians, which requires the Uncompahgre Indians to pay $1.25 per acre for the lands allotted them.

They stated that the Indians were unable to see why they should be required to pay for their allotments while the Uintahs living alongside them were not required to make this payment. They (the commissioners) anticipated great difficulty in satisfactorily explaining this matter to the Indians, and suggested whether it would not be best for the Government to relieve the Uncompahgres of this payment.

In reply the commissioners were advised, under date of February 4, 1895, that I had submitted a copy of their report, together with the report of Major Randlett, acting Indian agent, addressed to them upon the same subject, to the Department, with recommendation that the same be transmitted to the Senate Committee on Indian Affairs with request that a section be added to the Indian appropriation bill the effect of which would be to relieve the Indians of this payment.

I added that I did not know whether there would be any chance of obtaining this legislation, but that they would be able to assure the Indians that they had done all in their power to relieve them of this requirement, and that this office had cooperated with the commission in this matter.

Under date of March 22, 1895, the commissioners submitted the following statement:

> Your letter of the 15th instant was received by last mail. In it you state that 'the Secretary of the Interior is desirous of knowing how soon a report may be reasonably expected from you as to 'what portions of said reservation (Uncompahgre) are unsuited or will not be required for allotments,' as contemplated by section 20 of the act of August 15, 1894, under which you are operating."
>
> The commision begs to say in reply that no exploration of the reservation has been possible since it reached this place. The snow has been of such depth as utterly to prevent all travel over the reservation; and even had such travel been practicable no fair idea could have been formed as to the character of lands so heavily coated, as they have been, with snow. This covering is, however, at last beginning to disappear, and although it is still, judging from the outlook in the vicinity of this place, at considerable depth in certain portions of the reservation, it is supposed that the way will be sufficiently open for the commission to undertake the exploration required within a few days. It is thought, too, that this work can be finished in three or four weeks. You may be sure that it will be pushed with due rapidity. Immediately upon its completion a report will be forwarded embracing the information desired.

Under date of May 6, 1895, the commissioners submitted a report as to "what portions of said reservation"

(the Uncompahgre) "are unsuited or will not be required for allotments," and which under the provisions of the act of August 15, 1894, were by proclamation to "be restored to the public domain and made subject to entry."

June 3, 1895, this report was submitted to the Department, with a description by legal subdivisions of the lands which might be restored.

On the 19th of August, 1895, Commissioner Davis died, and his place has not been filled.

December 21, 1895, Commissioners Scott and Byrnes submitted a report, in which they stated substantially that it was impossible to induce the Uncompahgres to take allotments in severalty as contemplated by the act of August 15, 1894, in view of the requirement that they must pay $1.25 per acre for any and all lands allotted them.

Under date of January 14, 1896, I submitted this report to you, and after discussing the matter at some length and reviewing the work of the commission up to that time, remarked that the following questions suggested themselves:

> (1) Shall the commission make any further effort to induce the Uncompahgres to take allotments in severalty under existing conditions?
>
> (2) Is it your desire that they shall make further report of lands not suited or required for allotment, in order that such lands may be restored to the public domain?
>
> (3) Shall the commission suspend work among the Uncompahgres and proceed to negotiate with the Indians of the Uintah Indian Reservation for the relinquishment to the United States of the interest of said reservation not needed for allotments in severalty to said Indians, and if possible procure the

consent of said Indians to such relinquishment, and for the acceptance by said Indians of allotments in severalty within said reservation, etc.?

I also suggested that the best way out of the difficulties met with in carrying out the present law would be to obtain some such legislation as the following:

> To enable the Secretary of the Interior to negotiate with the Uncompahgre tribe of Indians and with the Indians residing on the Uintah Indian Reservation, in Utah, for such modification of existing treaties and agreements with said Indians and such change in their reservations as may be deemed desirable by said Indians and the Secretary of the Interior, —— thousand dollars, or so much thereof as may be necessary; but no agreement made shall take effect until ratified by Congress.

The expenditures by the commission, including the sum of $1,403 advanced for the present quarter, amount to $14,440.45.

In reporting on the resolution I have not confined myself strictly to its terms, but have also given in brief the action taken by this office in carrying out the provisions of the act of August 15, 1894.

In view of the recommendations contained in office reports of June 3, 1895, and January 14, 1896, which have not yet been acted upon by you, I have not deemed it advisable to express any opinion as to "the probable time when that provision of said sections can be executed which provides for a restoration to the public domain of certain lands within the Uncompahgre Indian Reservation in the Territory of Utah."

I inclose copies of the letter of instructions given the commission, its report of January 8, 1895, of the report of this office thereon of January 26, 1895, of the report of this office dated June 3, 1895, and of office report of January 14, 1896.

The reports of the commission of May 6, 1895, and December 21, 1895, are in your office.

Very respectfully, your obedient servant,

D. M. BROWNING,
Commissioner.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
COMMISSION FOR ALLOTMENT OF LANDS TO INDIANS IN UTAH,
Fort Duchesne, January 8, 1895.

SIR: The undersigned, Messrs. Scott and Davis, Ute Indian commissioners, with Mr. Edelin, clerk, reached this place on the morning of the 21st ultimo. They found Mr. Byrnes, the other commissioner, whose name is also underwritten, here awaiting them. A meeting of the commission was held on the following day, and the Commissioner of Indian Affairs was promptly advised of its organization and that it was in the field marked out for its future operations.

The ground was covered with snow, and until within the last few days snow has fallen almost every day or night since. The weather, too, has been at times intensely cold, the mercury in the thermometer at the post frequently sinking as low as zero and now and then from 10° to 20° below that point. Outdoor work on the part of the commission has been almost entirely impracticable, and indeed it is feared at this writing—the thermometer registering 24° below zero—that much of this kind of work will continue to be so until the coming in of spring. All, however, that can be done to facilitate the object had in view by the appointment of the commission in preparing for fieldwork when the time arrives for it has been done and will continue to be done faithfully and energetically.

The commission has had morning and afternoon meetings daily and has made honest efforts to arrive at a full comprehension of the very grave, delicate, and responsible duties with which it has been charged by the Government. It has read and reread, weighed, considered, and discussed the law approved August 15, 1894, under which it was organized; the instructions, dated the 7th ultimo, furnished for its guidance; the Ute Indian treaties of 1873 and 1880, and the acts of Congress ratifying the same; and all other public documents intrusted to it, or which could be reached, referring to the business in hand with the view of obtaining a clear understanding of the whole matter, in order that it might be ready not only to reply promptly and intelligently to every question on the subject propounded to it by the Indians, but be enabled to push the work to completion at the earliest practicable moment.

As a further preliminary movement in the direction suggested it was resolved by the commission to detail Commissioner Byrnes, who by long official association with the Uncompahgre Utes had secured their friendship and confidence, to visit the Ouray Agency and by informal conference with their chiefs and head men ascertain what was their understanding of the agreement entered into by them in conjunction with the other leading men of the confederated band of Utes at Washington City and subsequently ratified by them as part of said confederated band in a vote of three-fourths of the whole male adult population and known as the agreement of 1880. This step was taken because in communicating with Major Randlett, of the United States Army and acting agent for both the Uncompahgre and Uintah Utes, it was learned that there was much dissatisfaction among the former by reason of the failure on the part of the commissioners selected to treat with them under the act of 1880 to strictly carry out their instructions in removing them from their old reservation in Colorado; and again, because of the provision in the law of August 15, 1894—the one under which the present commission acts—

requiring them to pay $1.25 per acre out of their annuity funds for the lands to be allotted to them.

It may be well to state that Major Randlett understands these Indians well—he is most emphatically their friend, as they are without an exception his friend—and that he has embodied the foregoing facts in a letter to the commissioner, dated the 24th ultimo and received the 7th instant, which communication was at once referred to the Commissioner of Indian Affairs.

Commissioner Byrnes, in pursuance of the resolution referred to, proceeded to the Ouray Agency. The time and character of his work there is fully made known in the following subreport:

FORT DUCHESNE, UTAH,
January 7, 1895.

The UTE INDIAN COMMISSION.

GENTLEMEN: Pursuant to resolution dated December 31, 1894, I left this place on Friday last at 1 o'clock p.m. for the Ouray Agency and arrived there at 5 o'clock p.m. The following day, Saturday, January 5, being issue day, the Indians were present in large numbers. The chiefs and head men were all present. They had no knowledge of my being at the agency at that time. I carefully concealed the object of my visit, and concluded that it would be best to have all the Indians assemble at one time and state to them in each other's presence the object of my mission, so that I could be fully understood by all.

I concluded that this would be a better mode of procedure than questioning them separately. I therefore gave notice that all the male adult Indians should meet me at the agency office at 3 o'clock in the afternoon; that I desired to talk with them. Promptly at that hour 125 adult Indians, with Charley Albandra, the interpreter, had assembled at the office and notified me by the interpreter that they were ready to hear me talk. I invited Mr. John McAndrews, chief herder at this agency, who understands the Ute language, and Mr. Howard I. Brother, the clerk

in charge of the agency, to be present as witnesses to the proceedings. I then asked the Indians for the information required. They seemed to be very much astronished at the questions I asked. It seemed that I had taken them by surprise. However, they quickly responded as follows, which I noted down at the time: They said that they never agreed to come to this country, but were promised that they should remain in Colorado and be settled on the Grand River, near the mouth of the Gunnison, which they were promised they should be given houses and farms and helped to live like the whites. They said that they never agreed to pay $1.25 an acre for the lands they were to receive in exchange for the reservation in Colorado, and they never heard of such agreement until now; that the whites about here have lately been telling them about this, but they did not believe it until I told them that it was so. They seemed much surprised at this, and asked me to have the commission write to Washington and tell him this was wrong, and ask Washington to have them treated right.

All the Indians present were signers of the treaty of 1880. All the chiefs and headmen were present. Among those who were present and whose names I recollected are the following, which names I took down rapidly as they passed out:

Charley Chavanah.	Ash ta.	Gus.
Red Moon.	Ignacio.	Galota.
Charley Alhandra.	Wyasket.	Wee ma mooch.
Eggleston.	Ac cut ti pe noots.	Piah.
Quo nah ag.	New cow ree.	Arrappo.
Guo na tach.	Wass.	Atchee.
Snaps.	Little Jim.	Tom.
Henry Wilson.	Yon a gats.	Wa rat za.
Wap pa nah.	Pantalane.	Wa pe ratz.
Elk.	Arrive.	Yah pootz.
Chick i too Cohoe.	Pow a chitz.	Char oo.
Buckskin Jim.	Kan op atch.	Wap pe nas.
Fenno.	Johnson Smith.	Jack Johnson.
My yore.		

Having attended to the duties required of me, I returned to Fort Duchesne the next day, Sunday, 6th instant.

Respectfully submitted.

T. A. BYRNES,
Commissioner.

No comment is required here upon the foregoing subreport of Commissioner Byrnes. It is quoted for the benefit of the Indian Office, which will give it such consideration as it deserves. The commission, however, beg leave, in this connection, to call attention to the third section of the act of 1880 ratifying the Washington agreement. That section reads as follows:

"SEC. 3. That the Secretary of the Interior be, and he is hereby, authorized to cause to be surveyed, under the direction of said commissioners, a sufficient quantity of land in the vicinities named in said agreement to secure the settlement in severalty of said Indians as therein provided. And upon the completion of said survey and enumeration herein required the said commissioners shall cause allotments of lands to be made to each and all of the said Indians, in quantity and character as set forth in the agreement above mentioned, and whenever the report and proceedings of said commissioners, as required by this act, are approved by the President of the United States, he shall cause patents to issue to each and every allottee for the lands so allotted, with the same conditions, restrictions, and limitations mentioned therein as are provided in said agreement; and all the lands not so allotted, the title to which is, by the said agreement of the Confederated Bands of the Ute Indians and this acceptance by the United States, released and conveyed to the United States, shall be held and deemed to be public lands of the United States and subject to disposal under the laws providing for the disposal of the public lands, at the same price and on the same terms as other lands of like character, except as provided in this act: *Provided,*

That none of said lands, whether mineral or otherwise, shall be liable to entry and settlement under the provisions of the homestead law, but shall be subject to cash entry only in accordance with existing law; and when sold the proceeds of said sale shall be first sacredly applied to reimbursing the United States for all sums paid out or set apart under this act by the Government for the benefit of said Indians, and then to be applied in payment for the lands at one dollar and twenty-five cents per acre, which may be cedede to them by the United States outside of their reservation, in pursuance of this agreement. And the remainder, if any, shall be deposited in the Treasury, as now provided by law for the benefit of the said Indians, in the proportion hereinbefore stated, and the interest thereon shall be distributed annually to them in the same manner as the funds provided for in this act: *Provided,* That none of said lands, whether mineral or otherwise, shall be liable to entry and settlement under the provisions of the homestead law, but shall be subject to cash entry only in accordance with existing law; and when sold the proceeds of said sale shall be first sacredly applied to reimbursing the United States for all sums paid out or set apart under this act by the Government for the benefit of said Indians, and then to be applied in payment for the lands at one dollar and twenty-five cents per acre, which may be ceded to them by the United States outside of their reservation, in pursuance of this agreement. And the remainder, if any, shall be deposited in the Treasury, as now provided by law for the benefit of the said Indians, in the proportion hereinbefore stated, and the interest thereon shall bedistributed annually to them in the same manner as the funds provided for in this act: *Provided further,* That the subdivisions upon which are located improvements to be appraised, as provided for in section two of this act, shall be offered to the highest bidder at public sale, after published notice of at least thirty days by the Secretary of the Interior, and the same shall be absolutely reserved from occupation or claim until so sold."

Now, it is not at all surprising that ignorant Indians like the Uncompahgres should have supposed that a reservation which, according to law, it is true, is only theirs for temporary occupancy was given them just as the Uintah Reservation had been given to a brother band of Utes in their immediate neighborhood. The nice distinction between the modes by which the two reservations were established they would hardly be able to draw or understand. And it is still less surprising, in the light of that fact, that they should have been unable fully to comprehend the scope of the section which has just been quoted, especially as all the information they could get with regard to it had to reach them through the imperfect and uncertain medium of an interpreter.

But there is no wish, of course, to discuss the question of right in this paper. That has been settled. The question which is now presented to the Government, and to which is expected a favorable answer, is purely one of policy. Is it best for the Government and best for these Indians that the latter should be made to pay $1.25 per acre for the lands that are to be allotted to them by the present commission? In suggesting a reply to that question, the commission begs most respectfully to say, first, that in its opinion, based not only upon the report of Commissioner Byrnes, but upon statements made to it by Major Randlett and other reliable parties in the vicinity of these agencies, it will be no easy matter to induce the Uncompahgres to accept of allotments of lands upon the terms indicated.

It begs to say further that, on account of this difficulty, joined with the possible and perhaps probable misunderstanding on the part of these Indians of the full meaning of that third section, it would, in its humble judgment, be better for the Government to waive all right to the $1.25 per acre, and let them have the lands to be allotted to them free of all compensation whatever; and it makes this respectful suggestion the more readily because it is satisfied that the present Government of the United States, with a

knowledge of all the facts of the case, could not and would not allow even the smell of harsh dealing toward these Indians, who have shown themselves so willing heretofore to accede to its demands and comply with its wishes, to hang for an instant about its garments. This position of the commission is in harmony with that of both of the committees on Indian affairs in Congress, as is evident from their reports made—that of the Senate committee, May 29, and that of the House committee, April 4, 1894. From the former report are taken the subjoined paragraphs:

"Amend section 1 by adding after the word 'location,' in line 22—

" '*And provided further,* That the stipulation contained in the treaty with the Ute Indians, ratified by act of Congress June 15, 1880, whereby the said Indians are obligated to pay for the lands allotted to them in severalty, be, and the same is hereby, waived by the United States, and the allotments provided for by this act shall be made without any price to be paid or charge to be made against any funds to the credit of the Indians.'

"The reason for recommending this amendment," the committee goes on very forcibly to remark, "is that an effort to enforce the stipulation of the treaty of 1880 at this date would doubtless cause irritation on the part of the Indians, and might provoke resistance. While under the terms of that treaty a charge of $1.25 per acre might be made against the funds of the Indians for the areas allotted to them, the fact remains that this obligation is very imperfectly, if at all, appreciated by the Indians, and that they have from their long residence upon their present reservation acquired a conviction that the lands belong to them.

"In the twelve or fourteen years which have elapsed since the removal of the bands from their aboriginal seat in Colorado a new generation has come into the active management of tribal affairs and to many of the band the

treaty of 1880 is only a tradition, while occupancy of the Utah Reservation is a present fact. It is obviously quite natural, however unreasonable, that the Indians should feel themselves entitled to hold the existing reservation and should object to making payment for the fraction of that reservation which they will be allowed to retain. Under these circumstances, it is submitted that it is a wiser policy to waive the right of the Government to payment for the lands allotted than to incur the friction, delay, and possible strife which might follow an effort to enforce the letter of the treaty."

The commission has been sent here to do a particular work, and to that end the duty has been imposed upon it to communicate to the Government all facts that it may gather affecting the success to the undertaking. This duty it is now attempting in part to discharge; and in connection with that duty, and from the facts hereinbefore given, it has no hesitation in respectfully asking the Commissioner of Indian Affairs, and through him the Secretary of the Interior, to request Congress to amend the act of August 15, 1894, by which these Indians are required to pay the treaty-stipulated price of $1.25 per acre for the lands which may be allotted to them in accordance with its provisions.

If the Government should decide against waiving this right, the commission, undismayed by the grave and manifold difficulties of the situation, will do its best, as indeed it is now doing, in the line of its sworn duty, to induce these Indians to take homes and try to make of themselves a useful and self-supporting people. But it is to be hoped, and in truth it is believed, that the Government will consent to the waiver suggested. Should it do so, it will smooth the way for the commission to make arrangements to provide these Indians with lands upon which they can live and prosper; in a word, become in a few years settled, contented, thriving, as much so as any of their aboriginal brethren within the limits of the United States. There is no exaggeration in this statement. One has but

to see these Indians, note their intelligence, their love of home and family, when they have a home and family, their peaceful and industrious habits and their splendid physique, to be convinced of the truth of what is here claimed for them.

Respectfully submitted.

S. S. SCOTT,
T. A. BYRNES,
WM. S. DAVIS,
Ute Indian Commission.

HON. D. M. BROWNING,
Commissioner of Indian Affairs, Washington, D.C.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS
Washington, January 26, 1895.

SIR: Under date of January 8, 1895, the Ute Commission submitted a report relative to the progress of their work on the Uncompahgre Reservation. The commissioners refer to the provision in the act of June 5, 1880 (21 Stats., 199), ratifying the agreement with the Ute Indians, which requires that the Uncompahgre Indians shall pay $1.25 per acre for the lands allotted them, and state that these Indians are unable to see why they should be required to pay for the lands to be allotted them while the Uintahs living alongside of them are not required to make this payment. They anticipate great difficulty in satisfactorily explaining this matter to the Indians, and suggest whether it would not be best for the Government to relieve the Indians of this payment. They say:

"In the twelve or fourteen years which have elapsed since the removal of the bands from their aboriginal seat in Colorado a new generation has come into the active management of tribal affairs and to many of the band the treaty of 1880 is only a tradition, while occupancy of the Utah Reservation is a present fact. It is obviously

quite natural, however unreasonable, that the Indians should feel themselves entitled to hold the existing reservation and should object to making payment for the fraction of that reservation which they will be allowed to retain. Under these circumstances it is submitted that it is a wiser policy to waive the right of the Government to payment for the lands allotted than to incur the friction, delay, and possible strife which might follow an effort to enforce the letter of the treaty."

They further state that if the Government should decide against waiving this right "the commission, undismayed by the grave and manifold difficulties of the situation, will do its best—as indeed it is now doing, in the line of its sworn duty—to induce these Indians to take homes and try to make of themselves a useful and self-supporting people. But it is to be hoped, and in truth it is believed, that the Government will consent to the waiver suggested. Should it do so, it will smooth the way for the commission to make arrangements to provide these Indians with lands upon which they can live and prosper; in a word, become, in a few years, settled, contented, thriving—as much so as any other aboriginal brethren within the limits of the United States."

I am also in receipt of a copy of a communication addressed by Maj. James F. Randlett, U.S.A., acting Indian agent in charge of the Uncompahgre and Uintah Utes to the commission, under date of December 24, 1894, upon the same subject. Major Randlett refers at length to the agreement of 1880 and the act by which it was ratified, and the operations of the commission appointed under said act to carry it into effect. He also refers to the wrong committed upon the Uncompahgre Indians by the commissioners charged with removing them to the Grand River, and the failure of the Government to furnish them with houses, wagons, agricultural implements, saw and grist mills, etc., and, as agent for the Indians, informs the present commission that it will be a hard task for them to convince the Indians that it is just

to hold them to the stipulation of the agreement of 1880 for payment of their allotments while the said agreement has been violated in numerous ways by the Government, and concludes as follows:

"I presume you will consider it to be your first duty under the law to ascertain what lands can be cut off from the reservation as not wanted for allotment, and as you will experience much difficulty and delay in accomplishing this, on account of the extent of the reservation and the very small quantity of agricultural land to be found within its limits, I beg that you will consider the question herein raised for the purpose of securing more liberal and just dealing with these Indians from the Government, and that if my conclusions are deemed correct, and you can find it consistent to do so, I pray that you will present the subject for the consideration of the honorable Secretary of the Interior to the end that Congress may be asked to repeal the clause in the act of August, 1894, requiring $1.25 per acre for lands to be allotted to them, and to make the necessary appropriations for supplying them with houses and agricultural implements, and in building substantial and complete irrigating ditches, so that it may be reasonable to expect them to become self-supporting. As agent for these Indians it is my determination to cooperate with you with due sense of my duty to the Government and the obedience I owe to the law of the land, while at the same time I will hope that our work may be carried on in such manner and to such end that no further injustice may come to these poor man-cursed fellow-creatures, and that our efforts for fair dealing with all concerned will be approved by the authority that has intrusted us, and result in reclaiming these Indians from barbarism and ultimately establishing them in ways of right living as American citizens."

The provision in the act of August 15, 1894 (28 Stat. L., 337), to which the commissioners and Major Randlett refer, is as follows:

"*And provided,* That said Indians shall pay $1.25 per acre for said lands from the fund now in the United States Treasury realized from the sale of their lands in Colorado, as provided by their contract with the Government."

It is considered necessary to go at length into the history of the agreement of 1880 and the action taken thereunder, as the facts are not only well known to the Department and the committees of Congress, but are fully set out in the communication of Major Randlett and the commissioners.

While under the strict letter of the law the Government is doubtless in a position to enforce payment for this land, yet I believe that equity and a sense of fair dealing with these Indians require that this provision should not be enacted. I am also of the opinion that a waiver of this requirement would produce such good feeling among the Indians as would remove many of the difficulties which now beset the commission and render its success in carrying out the provisions of the act of 1894 much more certain.

I therefore have the honor to recommend that the inclosed copies of the correspondence be transmitted to the Senate Committe on Indian Affairs with the recommendation that the following section be added to the Indian appropriation bill:

"SEC. —. That the requirement of the Act approved June fifteenth, eighteen hundred and eighty, entitled 'An Act to accept and ratify the agreement submitted by the Confederated Bands of Ute Indians in Colorado for the sale of their reservation in said State, and for other purposes,' and to make the necessary appropriations for carrying out the same, and that contained in section nineteen of the Act approved August fifteenth, eighteen hundred and ninety-four, entitled 'An Act making appropriations for the current and contingent expenses of the Indian Department and fulfilling treaty stipulations with various

Indian tribes for the fiscal year ending June thirtieth, eighteen hundred and ninety-five, and for other purposes,' which requires the Uncompahgre Ute Indians to pay the sum of one dollar and twenty-five cents per acre for the lands that may be allotted them in Utah, be and the same is hereby waived by the United States and the allotments provided for in said agreement and said Act of August fifteenth, eighteen hundred and ninety-four, shall be made without any price to be paid or charge to be made against any funds to the credit of the Indians."

Very respectfully, your obedient servant,

D. M. BROWNING,
Commissioner.

THE SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, June 3, 1895.

SIR: Section 20 of the act of Congress approved August 15, 1894 (28 Stat. L., 286), which authorizes the appointment of a commission to allot in severalty to the Uncompahgre Indians within their reservation, in the Territory of Utah, agricultural and grazing lands, contains the following clause:

"Said commissioners shall, as soon as practicable after their appointment, report to the Secretary of the Interior what portions of said reservation are unsuited or will not be required for allotments, and thereupon such portions so reported shall, by proclamation, be restored to the public domain and made subject to entry as hereinafter provided."

I am now in receipt of a report from the Ute Indian commissioners, dated May 6, 1895, relative to the lands which may be opened under the above provision. Report inclosed herewith.

The commissioners do not hesitate to say, after a thorough exploration of the country east of Green River, which embraces about 1,800,000 acres of the 2,000,000 acres that make up the entire reservation, that there is no arable land upon it suitable for Indian allotments, except about 10,000 acres of bottom land extending 10 or 12 miles up the White on both sides from its mouth.

They also say: "That portion of the reservation explored, embracing, as before said, all the land east of Green River and both above and below the White, is, with the exception of the valley of the White (about 10,000 acres) and the valley of the Green (unsuited to agricultural purposes), a desert *above*, a desert of shifting sand scantily supplied with a stunted growth of sage and grease wood and destitute of water after leaving these rivers until Badland Creek is reached near the northern boundary of the reservation; and *below* a desert too, but instead of shifting sand one of hard ground and sheets of rock, seamed and fissured, along which in every direction are crags, precipices, and piles of bowlders terribly broken up and shattered and thrown together in every conceivable shape and size. This rocky waste, however, is relieved by several small streams running north, which, by the aid of the vegetation that increases in richness and variety as the country in successive rolls rises to mountainous ranges on and beyond the southern border of the reservation, form about the only good pasture lands to be found for these Uncompahgre Indians."

From this report it appears that the commission is satisfied that none of the reservation east of Green River, except the valley of the White, is suitable for agricultural allotments. The commissioners therefore suggest that that portion of the Uncompahgre Reservation east of Green River and north of White River, but not including the bottom lands of the two rivers, may be opened to settlement.

They do not make a similar recommendations as to the lands east of Green River and south of White River, for

the reason that, although unsuited to agricultural allotments, these lands, unlike the former, are well watered, furnish good pasturage, and being extensively used by the Indians for grazing purposes, should be saved to them until all allotments are completed.

The report being somewhat contradictory and not being able to positively determine whether the commissioners proposed to reserve the bottom lands of the White River for a distance of 10 or 12 miles, or to the Colorado line, I sent them the following telegram on May 31, 1895:

"Does your report of May 6th contemplate reserving for allotments to Indians any bottom or other lands on north side of White River east of range line between ranges 21 and 22 east Salt Lake meridian? Wire answer."

In reply Chairman Scott replied on the same day, as follows: "Our report was intended to reserve all the bottom lands on the White River between its mouth and the Colorado line."

In accordance with the suggestion of the commission, as above explained, I have the honor to recommend that the following-deserted portion of the Uncompahgre Indian Reservation in Utah be opened to settlement under the provisions of the act of August 15, 1894 (28 Stat. L. 286), viz:

Beginning at a point where the section line between sections 13 and 24, in township 9 south, range 25 east, Salt Lake meridian, if extended, intersects the eastern boundary of Utah Territory; thence west on the section line between sections 13 and 24, 14 and 23, 15 and 22, 16 and 21, 17 and 20, 18 and 19, in township 9 south of ranges 25, 24, and 23 east of said meridian; thence north on the range line between ranges 22 and 23 to the northeast corner of township 9 south, range 22 east; thence west on the north boundary of said township to the northeast corner of section 4 of said township; thence north on section line to the northeast corner of section 21, township 8 south; thence west on the section line to the northwest corner of section 19 in said township; thence north on the range line between ranges 21 and 22 east to the southeast corner of township 6 south of range 21 east; thence east on the south boundary of township 6 south, range 22 east, to the southeast corner of said township; thence north on the range line between ranges 22 and 23 east to the northeast corner of section 25, township 6 south, range 22 east; thence east on the south line of sections 19, 20, 21, 22, 23, and 24 of township 6 south, range 23 east, to the range line between ranges 23 and 24 east; thence south on said range line and following the present boundary of the reservation to the southwest corner of township 6 south, range 24 east; thence east on said reservation boundary to the southeast corner of fractional township 6 south, range 26 east; thence south on said reservation boundary, being the east boundary of Utah Territory, to the place of beginning.

It is altogether desirable that the lands to be opened to settlement should be described by legal subdivisions of the public survey. To describe them as being all the lands "between (not including) the bottom lands" of Green and White rivers would be too indefinite and not at all satisfactory. I have therefore followed lines of the public survey in describing the lands to be opened to settlement, and have taken care to reserve enough lands along both rivers to embrace, it is thought, all the bottom lands of both of said rivers. If more land is reserved than will be needed for allotments to the Indians the surplus not so needed can be opened at some future time.

I inclose for your convenience a map of Utah, showing the lines by which the tract it is proposed to open is bounded.

Very respectfully, your obedient servant,

THOS. P. SMITH,
Acting Commissioner.

THE SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, January 14, 1896.

SIR: I have the honor to submit for your consideration the following statement of facts relative to the work of the Uncompahgre and Uintah Ute commission, showing what has thus far been accomplished and the seeming difficulties in the way of the successful accomplishment of the aims and purposes of the law under which said commission is now operating.

The law (28 Stats., pp. 337-338), briefly stated, provides for the appointment of a commission of three persons to allot in severalty to the Uncompahgre Utes, within their reservation, in Utah, agricultural and grazing lands according to the treaty (agreement) of 1880 (21 Stats., p. 199)—to heads of families, each, 160 acres of agricultural lands, and not to exceed 160 acres of grazing lands additional; to single persons over 18 years of age, each, 80 acres of agricultural, and not to exceed 80 acres of grazing lands additional; to orphan children, each, same as last mentioned; to each other person under 18 years of age, born prior to such allotment, same as last; provided that, with the consent of the commission, any adult Indian may select a less quantity of land, if more desirable on account of locality.

It is also provided that said Indians shall pay $1.25 per acre for the lands that may be alloted to them, from the money realized from the sale of the lands in Colorado from which they were removed when they were taken to Utah.

A further important provision is that said commission shall, as soon as practicable after appointment, report to the Secretary of the Interior what portions of said Uncompahgre Reservation are unsuited or will not be required for allotments, and thereupon such portions so reported shall, by proclamation, be restored to the public

domain and made subject to entry as thereinafter set forth.

After indicating the manner in which the unallotted lands shall be disposed of, the law imposes a further duty upon the commission, as follows:

"That said commission shall also negotiate and treat with the Indians properly residing upon the Uintah Reservation, in the Territory of Utah, for the relinquishment to the United States of the interest of said Indians in all lands within said reservation not needed for allotment in severalty to said Indians, and if possible procure the consent of such Indians to such relinquishment, and for the acceptance by said Indians of allotments in severalty of lands within said reservation, and said commissioners shall report any agreement made by them with said Indians, which agreement shall become operative only when ratified by act of Congress."

The commission, Messrs. Scott, Byrnes, and Davis, entered upon their duties under instructions approved by you December 8, 1894.

On January 8, 1895, they submitted a report in which they referred to the provisions in the act of June 5, 1880 (supra), ratifying the agreement with the Utes, which require that the Uncompahgre Indians shall pay $1.25 per acre for the lands allotted them, and stated that these Indians were unable to see why they should be required to pay for the lands to be allotted to them while the Uintahs, living alongside, were not required to make such payment. The commission anticipated great difficulty in satisfactorily explaining this matter to the Indians and suggested whether it would not be best for the Government to relieve the Indians of this payment. January 26, 1895, I recommended that a section be added to the then pending Indian appropriation bill relieving the Uncompahgre Indians of the payment required by the act of June 5, 1880, but favorable action was not taken by Con-

gress. As we have already seen, the requirement as to this payment is repeated in the act of August 15, 1894 (supra).

In your Annual Report for 1895 (p. 10) I observe that you do not feel inclined to favor the suggestion for relieving these Indians of this payment. You remark: "If they are given agricultural lands, as the agreement specifies, I see no reason why the credits should not be made upon the trust fund, unless the delay in allotment is cause for complaint on the part of the Indians." It may be proper to state here that no complaint has been made by the Indians, so far as I know, on account of the delay in making allotments to them.

I am now in receipt of a further report from the commission, dated December 21, 1895, in which they report, in substance and effect, that it is impossible to induce the Uncompahgre Utes to take allotments in severalty as contemplated by the act of August 15, 1894, in view of the legal requirement that they must pay $1.25 per acre for any and all lands that may be allotted to them. I inclose the report, and invite the careful attention of the Department to all that is said in advocacy of relieving the Uncompahgres from this payment.

It is very evident from this report that it would be idle to continue the efforts to induce these Indians to take allotments in severalty so long as this, to them, objectionable requirement is insisted upon. A whole year has been spent principally in the endeavor to persuade these Indians to take allotments, and the task appears to be a hopeless one under existing conditions.

There is another matter which gives serious concern, and that is, there is in reality but very little, if any, land within the entire Uncompahgre Reservation proper suitable for allotment as agricultural land. The commissioners report with positiveness that while certain parts of the reservation are suitable for grazing allotments none of it

east of Green River and but little of it, comparatively speaking, west of that river is fitted for agricultural allotments to Indians.

As the Department is aware, when the Uncompahgres were removed to Utah lands were selected for them not only within what is now the Uncompahgre Reservation, but also the lands along the Duchesne River, from its junction with the Green up to a point 8 miles above the mouth of the Uintah River. The lands along the Duchesne are within the boundaries of the Uintah Reservation and the Uncompahgres are entitled to take their allotments there, but not farther than 8 miles above the mouth of the Uintah.

In the original instructions to the commission it was pointed out that there was believed to be a very considerable area of fertile land on the Duchesne as yet unoccupied, and they were instructed, if such was found to be the case, to see that every acre of it was taken in allotment. In their late report the commissioners state that there are several thousand acres subject to allotment to the Uncompahgre Indians on the Duchesne River—good agricultural land and perfectly adapted to their wants. They think that there is enough of this fine land there to furnish agricultural allotments to two or three hundred of the Uncompahgres. This, of course, is an entirely insufficient quantity. But the commissioners observe that above the 8-mile limit on the Duchesne there is ample land of fine quality to supply farms and homes for the entire Uncompahgre tribe, taking in, of course, the land already belonging to the Uncompahgres below the 8-mile limit. It is rightly stated, however, that this land (above the 8-mile limit) belongs to the Uintah Indians, and can only be secured by negotiations with them. They suggest, however, that there would be no difficulty in negotiating for its purchase on reasonable terms, inasmuch as the Uintahs and Uncompahgres are very friendly.

Probably this assumption is correct, and the authority to negotiate with the Uintahs cited in this report (p. 2)

would, it is believed, cover negotiations for the accomplishment of this object. But if the Uncompahgres, by reason of the requirement that they must pay $1.25 per acre for their lands, object to taking allotments on that part of the Duchesne which was selected for them and where they are now privileged to take them, it is not seen how it would better the matter to procure, by purchase or otherwise, more land in that neighborhood and offer it to them in allotment upon the same conditions.

A question arises here, however, which I think should be considered:

Did the agreement and act of 1880 (supra) which provides that the United States shall reimburse itself from the proceeds of the sale of the Colorado lands "in payment for the lands at $1.25 per acre which may be ceded to them by the United States outside of their reservation, in pursuance of this agreement," contemplate that such payment should be made for any lands that might be selected for them within *an existing Indian reservation*—lands that had long been reserved from the public domain and set apart for Indian purposes? The agreement with the Indians provided, and it was expected, that the Uncompahgres would settle on the Grand River, near the mouth of the Gunnison, in Colorado, within the territory ceded by the Ute Indians in said agreement, if a sufficient quantity of agricultural lands could be found there, and in anticipation of their settlement there some $21,000 was expended out of the Ute removal fund to make surveys for allotments for them there (subsequently reimbursed, 23 Stat. L., p. 95). But if a sufficient quantity of land could not be found on Grand River then they were to be settled upon such other unoccupied agricultural lands as could be found in that vicinity, and in the Territory of Utah, and for any land which might be ceded to them *outside of their reservation* for their allotments the United States was to be reimbursed in the sum of $1.25 per acre.

It appears that a sufficient quantity of land to meet the requirements could not be found in Colorado, and lands

were selected for them in Utah, *a portion of the selected lands being within the Uintah Reservation.* Whether the agreement and act of ratification really authorized or contemplated the selection of any lands for the Uncompahgres within the Uintah Reservation or not, the fact remains that lands were selected for them on said reservation, as hereinbefore stated, "along the Duchesne River, from its junction with the Green up to a point 8 miles above the mouth of the Uintah River," and the selection was approved by the Secretary of the Interior. (Annual Report Indian Office, 1881, p. 327.) Moreover, the lands that were selected for said Indians within the Uintah Reservation appear to be about the only lands of all that were selected for the Uncompahgres that are suitable for allotments for agricultural purposes, and the commissioners report that "already many farms have been opened (by the Uncompahgres) on the Duchesne, well fenced with wire and cedar posts, having necessary ditches for irrigation and good, comfortable homes, all occupied by Uncompahgre families, who are working to advantage and profit," and that "steps have also been taken to provide a canal for a body of land on the south side of the lower Duchesne, containing about 4,000 acres, which, when houses and fences for it are constructed, will accommodate many other families of this band that are ready and waiting to take possession, so that, as before indicated, when these Indians can be induced to accept allotments a large part of them will be able to receive the same from lands on which they have already been settled and engaged in cultivating.

Then, as it turned out, the United States got the benefit of all the lands purchased from the Ute Indians by the agreement of 1880. None of the Indians were given allotments upon the lands so purchased, and it would appear from the recent reports of the Ute Commission that but very few, if any of them, can be accommodated with agricultural lands within the territory selected for them on the Green River and White River, in Utah,

within the present Executive Order Reservation; this for the reason, as already stated, that there is but very little, if any, suitable land there for allotment to them. Now, if these Indians should, by proper arrangement, all be settled and given allotments on the Duchesne, within the Uintah Reservation, would it be proper for the Government to insist that they should pay $1.25 an acre for their lands? The commissioners have found it very difficult to explain to them in any satisfactory way why they should pay for lands taken in allotment within the Uintah Reservation while their neighbors, the White River Utes, who were removed at the same time with them, and located on the Uintah Reservation, are not required to pay for theirs.

Had the Uncompahgres settled on the Grand River within their old reservation in Colorado, no payment would have been required of them for the lands taken in allotment. It was only for lands "ceded to them by the United States *outside of their reservation*" (in Colorado) that the Government was to be reimbursed for. Now, if they take their allotments on the Duchesne, within the Uintah Reservation, will they be required to pay for them at the rate of $1.25 per acre? If so, why should not the White River Utes be required to pay for their allotments at the same price? It has never been suggested, so far as I am aware, that the White Rivers would be required to make such payment when they come to take their lands in severalty on the Uintah Reservation.

It is not known positively whether the Uncompahgres would all be willing to settle on the Uintah Reservation, but it is inferred that they would from the recent report of the Commission, provided, of course, that they are not required to pay for the lands. Again, if they should all agree to settle there, what would become of the Executive Order Reservation—the Uncompahgre Reservation proper? The law (act August 15, 1894) provides that the lands ascertained to be unsuitable or not required for allotment shall be restored to the public domain and made

subject to entry by the Whites. But would the Uncompahgres be willing to give up whatever rights they have in and to said lands in consideration of their being allowed to take lands—all of them—in allotments on the Uintah Reservation? This is a question that can only be determined by consulting them.

The questions arising in my mind after reviewing the work of the commission up to this time are:

(1) Shall the commission make any further effort to induce the Uncompahgres to take allotments in severalty under existing conditions?

(2) Is it your desire that they shall make further report of lands not suited or required for allotment, in order that such lands may be restored to the public domain?

In your annual report for 1895 (p. 10) you were pleased to recommend the passage of such legislation "as will provide for the disposal of the Gilsonite deposits by lease or sale to the highest bidder." In view of this, is it desirable that the commissioners shall be directed to make further report upon lands not suited or needed for allotments?

(3) Shall the commission suspend work among the Uncompahgres and proceed to negotiate with the Indians of the Unintah Indian Reservation "for the relinquishment to the United States of the interest of said Indians in all lands within said reservation not needed for allotments in severalty to said Indians, and if possible procure the consent of said Indians to such relinquishment, and for the acceptance by said Indians of allotments in severalty within such reservation," etc.?

In connection with the last question it has occurred to me that it might not be wise to undertake negotiations with the Uintahs until something definite is reached in regard to the final settlement of the very serious and preplexing difficulties met with in carrying out that part of the law relating to the Uncompahgres.

The Uintah Reservation is admirably adapted to Indian uses, and it seems to me that it should be kept intact for their use and occupation until it is ascertained beyond question that there is a surplus over and above the present and prospective wants of the Indians thereon and in that region of country, when such portions as are really not needed might be disposed of for white settlement. Leaving out the Uncompahgre Executive order reservation the Uintah Reservation is the only Indian reservation in the entire State of Utah, and I do not think we should be in a hurry to encroach upon it simply because it happens to be attractive to white home seekers.

I have already referred to the recommendation contained in your last annual report for further legislation in regard to the disposal of the Gilsonite deposits within the Uncompahgre Reservation. I believe that the best way out of the difficulties met with in carrying out the present law would be to obtain some such legislation as was provided in the case of the Chippewa Indians in Minnesota and other Indians in northern Montana and Fort Berthold (24 Stat. L., p. 44). For example, such authority as this:

To enable the Secretary of the Interior to negotiate with the Uncompahgre tribe of Indians and with the Indians residing upon the Uintah Indian Reservation in Utah for such modification of existing treaties and agreements with said Indians and such change in their reservations as may be deemed desirable by said Indians and the Secretary of the Interior, —— thousand dollars, or so much thereof as may be necessary; but no agreement made shall take effect until ratified by Congress.

With such general authority, I thing an agreement could be reached with the Indians which would be satisfactory both to them and the whites who were interested in procuring the legislation under which the Ute commission is now operating.

I desire to direct attention to one other point requiring your consideration.

Section 20 of the act of August 15, 1894, authorizes and directs the appointment of a commission of three persons to allot lands in severalty to the Uncompahgres, and section 22 provides that said commission shall also negotiate with the Uintah Indians. The commission was originally composed of three persons, but one of the number, Mr. Davis, died on the 19th of August last, and his place has not as yet been filled. The question arises whether the commission could, as at present constiuted, go on and negotiate with the Uintah Indians as provided in section 22 of the act in case it should be decided to undertake such negotiations without any further legislation. It should be stated in connection with this subject that the chairman of the commission reports that with the commission composed of but two members the funds of the appropriation will not be exhausted—allowing for the payment of the expenses of the commission in returning to their homes—until the 25th day of May next.

Very respectfully, your obedient servant,

D. M. BROWNING,
Commissioner.

THE SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
COMMISSION FOR ALLOTMENT OF LANDS TO INDIANS IN UTAH.
Fort Duchesne, Utah, May 6, 1895.

SIR: In your letter of March 15, 1895, you expressed the hope that the Ute Indian commissioners would be able, for the information of the Secretary of the Interior, to report to you at an early day "what portions of the Uncompahgre Reservation are unsuited or will not be required for allotment to the Indians." In response to that

communication the undersigned immediately (March 22, 1895) informed you that as soon as the weather would admit of a personal inspection by them of the reservation the desired information would be promptly furnished you.

By reference to the map of Utah published by the General Land Office in 1893—a copy of which was furnished the undersigned by the Indian Office—it will be seen that the Uncompahgre Reservation proper is divided by the Green River, which enters near the middle of the northern border and passes out at southwestern corner, leaving on the western side of that stream two inconsiderable triangles, separated from each other by the southeastern slip or tongue of the Uintah Reservation, which, running down on both sides of the Duchesne River, touches the Green at or about the confluence of the two streams. From the same map it will be further perceived that the main body of the Uncompahgre Reservation, which lies east of the Green River, is divided into what may be termed northern and southern parts by the White River, which, entering from Colorado and flowing west, empties into the Green not far from the mouth of the Duchesne on the opposite side.

After a thorough exploration of this country east of the Green, which embraces about 1,800,000 acres of the 2,000,000 acres that make up the entire reservation, the undersigned do not hesitate to say that there is no arable land upon it suitable for Indian allotment except about 10,000 acres of bottom land extending 10 or 12 miles up the White on both sides from its mouth. This statement is somewhat in conflict with what is set forth in the report of the commissioners who settled the Uncompahgre Indians here in 1881, a clause of which is embodied in the instructions given to this commission. The whole paragraph from which the clause is taken reads as follows: "The valleys which we have selected vary from one-half to 6 miles in width. The altitude is about 48 feet. Along the Green River is an abundance of cotton-

wood timber for the wants of the Indians for fencing and firewood. The bottom lands are rich and can be easily irrigated and made available by inexperienced labor. Situated as they are between the agency of the White River and the agency of the Uintah, they have hitherto been practically unoccupied because of the supposed danger in living between these two bands of Indians and along the trail from one agency to the other. Mr. Saddler has now an improved ranch in the valley of the White River, 5 or 6 miles from the agency, upon which he has this year raised a splendid crop of wheat, corn, potatoes, and other vegetables. With these lands the Indians can, if they will make the effort, eventually support themselves. It will, however, require considerable time and encouragement before they will make the best use of the opportunities now open to them."

What is here said when applied to the valley of the Duchesne and that of the White is just, but will not do when applied to any of the valley lands, great or small, of the Green. The altitude of the Green River bottoms at certain seasons of the year may indeed be 48 feet, perhaps more, but when the undersigned a few days ago crossed that river the altitude was scarcely 3 feet, and before the lapse of many days the altitude will no doubt be nothing at all, for every foot of these Green River bottoms, according to the testimony of old inhabitants, whether whites or Indians, is flooded during the spring of each year.

The Green River bottoms, it is true, where the land has not been injured by water standing upon it during the season of vegetation, can be utilized for grazing purposes, and certain Indians are now making use of them or parts of them in that way; but that they could ever be made available "by inexperienced labor" is one of those grave mistakes into which agents of the Government have not unfrequently fallen when dealing with Indians.

That portion of the reservation explored, embracing, as before said, all the land east of Green River, and both above and below the White, is, with the exception of the valley of the White (about 10,000 acres) and the valley of the Green (unsuited for agricultural purposes), a desert of shifting sand, scantily supplied with a stunted growth of sage and grease wood and destitute of water after leaving these rivers until Badland Creek is reached near the northern boundary of the reservation; and below, a desert too, but instead of shifting sand one of hard gravel and sheets of rock, seamed and fissured, along which in every direction are crags, precipices, and piles of bowlders terribly broken and shattered, and thrown together in every conceivable shape and size. This rocky waste, however, is relieved by several small streams running north, which, by the aid of the vegetation that increases in richness and variety as the country in successive rolls rises to mountainous ranges on and beyond the southern border of the reservation, form about the only good pasture lands to be found for these Uncompahgre Indians.

It is evident from what has been said that the undersigned are satisfied that none of the reservation east of Green River, except the valley of the White, is suitable for agricultural allotment. They therefore suggest that all the northeastern portion, between (not including) the bottom lands of the two mentioned rivers, might be taken up by the Government and thrown open to settlement. They, however, do not make a similar suggestion with regard to the lands south of the White, for the reason that, although unsuited to agricultural allotment like the former, these lands unlike the former are well watered, furnish good pasturage, and being extensively used by the Indians for grazing purposes should be saved to them until all allotments are completed.

In the drawing hereto attached that part of the reservation which in the previous statement is suggested as

comprising all the land that it would be prudent in the judgment of the commission to segregate just at this time is inclosed in red lines.

The undersigned beg to say in conclusion that they were materially assisted in the work of exploring the reservation by Mr. John McAndrews, one of the clever employees at the Ouray Agency, who by long service with the Uncompahgre Indians has become well acquainted with every part of their present country.

Respectfully submitted.

S. S. SCOTT,
T. A. BYRNES,
WM. S. DAVIS,
Ute Indian Commission.

Hon. D. M. BROWNING,
Commissioner of Indian Affairs, Washington, D.C.

[Map Omitted in Printing]

DEPARTMENT OF THE INTERIOR,
COMMISSION FOR ALLOTMENT OF LANDS TO INDIANS IN UTAH,
Fort Duchesne, Utah, December 21, 1895.

SIR: You will please pardon the statement, by way of introduction, of a few facts well known to the Indian Office, as it is simply made in order that all which follows in the main body of this report may be clearly understood.

By the treaty of 1880 with the confederated bands of Ute Indians in Colorado the whole of their reservation in that State, containing over 10,000,000 acres, was ceded to the United States for $1,250,000, or about 12½ cents per acre, which was about the price per acre received by them for the block of nearly 4,000,000 acres previously cut out of the reservation in the cession under what is

known as the Brunot treaty of 1873; and said bands, except the Southern Utes, who were otherwise provided for, agreed to take allotments of lands in severalty, paying for the same $1.25 per acre, on the Grand River near the mouth of the Gunnison, if a sufficiency of land for the purpose could be had there; if not, the residue were to be supplied with lands at the stipulated price over the line in Utah.

The commission, acting under this agreement, located none of these Indians near the mouth of the Gunnison, but carried all of them to Utah—the White Rivers into the Uintah Reservation and the Uncompahgres to land on the Green, White, and Duchesne rivers, near the mouths of the two last-named streams. No lands were allotted to any of these Indians by that commission. Subsequently, to wit, January 5, 1882, the lands upon which the Uncompahgres were placed, with certain parts of the adjacent country, embracing about 2,000,000 acres, were set apart as a reservation for them by Executive proclamation.

By the Indian appropriation act approved August 15, 1894, it was provided, among other things, that the requisite steps should be taken to allot lands in severalty to these Uncompahgre Indians according to the terms of the treaty of 1880. The present commission appointed under this law have met with grave difficulties in the attempt to carry out its provisions. Along with the effort to induce the Uncompahgre Indians to accept of lands in severalty it was of course necessary to find lands suitable for them to take among those especially set apart for the purpose. There were over 1,000 Uncompahgre Indians to be supplied.

Upon investigation it was discovered and so reported to the Indian Office that the lands of the White and Green rivers on the reservation (except a few thousand acres near the mouth of the former), which were supposed by the commission of 1880 to be susceptible of "easy irrigation" and adapted to "cultivation by inexperienced labor," were wholly unfitted for the purpose, as, with the exception given, there were no bottoms that amounted to much on the White, and the bottoms of the Green were subject to periodic overflows. It should be said now that subsequent investigation by an army officer and an accomplished civil engineer has shown that even the exception heretofore given of the few thousand acres at the mouth of the White was incorrect, as the difficulty of reaching the main channel of the river, especially on the south side, where most of the best arable land is found, with a canal high enough up the stream to bring irrigating water to the surface of the bottoms below, with the heavy expense that would attend the work, renders the acceptance of even these bottoms for agricultural allotments to Indians improper and unwise. So it may be affirmed that while certain parts of the Uncompahgre Reservation proper are suitable for grazing allotment none of it east of Green River, and but little of it, comparatively speaking, west of that stream, is fitted for agricultural allotment to Indians.

But there are several thousand acres subject to agricultural allotment to these Uncompahgre Indians, and perfectly adapted to the purpose in every respect, on both sides of the Duchesne River, extending from its mouth to a point 8 miles above its confluence with the Uintah. These lands are extremely rich, well wooded in places, are not subject to overflow, and can readily be irrigated—parts of them, indeed, have already been irrigated—as will appear hereafter. It is rather difficult to indicate with any certainty how many acres can be secured here for the purpose suggested, perhaps enough to furnish agricultural allotments to two or three hundred Indians. Above the 8-mile limit, however, on the Duchesne, say for 12 or 15 miles, on the south side to the place where the elevated mesa first strikes the river, extends an area of rich bottom, varying from a half mile

to 2 miles in width, that can be brought under cultivation with little trouble, and which, with certain lands in the immediate vicinity on the north side, and with the lands on the lower Duchesne referred to, would be sufficient to supply farms and homes in rather a compact body to the entire Uncompahgre band. But this land being above the 8-mile limit belongs to the Uintahs and can only be secured by negotiation with them. No difficulty as to its purchase on reasonable terms is anticipated, as the Uintahs are very friendly with the Uncompahgres and would be glad no doubt to have them on their reservation.

The lands referred to on the Duchesne, lying between its junction with the Green and the wight-mile limit above the mouth of the Uintah, are the ones to which the attention of the commission has been especially directed, as being the only lands available for agricultural allotment to the Uncompahgre Indians under the law of August 15, 1894. Before taking any steps for the allotment of these lands there were serious difficulties to be met and removed by the commission. About fifteen years have elapsed since the treaty of 1880. A new generation of Indians now largely make up and control the Uncompahgre band; and to them the treaty is merely a tradition. During the twelve or more years that they have been occupying the reservation they have been accustomed to use it as their property, and the idea thus formed of its being such has been still further strengthened by their knowledge of the ownership on the part of their brothers, the Uintah Utes, of the reservation close by. And besides, the older living Uncompahgre Indians who signed the treaty claim that they did not agree to pay for the lands which might be allotted to them in severalty, $1.25 per acre, but that the lands were to be given them in part payment for the better lands which they had so reluctantly relinquished in Colorado.

The contention of these Indians against this payment, so persistently and decidedly made in all talks had between them and the commission, seems really to spring from honest opinions and impressions. Arguing upon the hypothesis of good faith in Government agents when dealing with them, the commission has attempted to show in previous reports that the channel of communication was no doubt the cause of disagreement in the matter—that the agents either failed to make themselves understood by the interpreters or that the interpreters failed to make themselves understood by the Indians, and cases were cited in which one or the other of these things evidently occurred in previous negotiations with these very Indians. For these reasons, and others set forth in those reports, the commission urged a waiver on the part of the Government of the right to exact this sum of $1.25 per acre in the prosecution of the work of allotment.

Another point that should be mentioned in connection with this matter of waiver and the good policy of its being made is the difference between the price received by these Indians for their lands in Colorado and that which is claimed of them for the lands under the contemplated settlement, along with the difficulty of making any satisfactory explanation of the subject to such a people. As has been stated, they received for their lands in Colorado only about 12½ cents per acre. Now, they say, they are called upon to pay $1.25 per acre—just ten times as much—for lands to live on here in Utah, where they never wanted to come. If their wishes, they continue, had been consulted at all, they would have taken their allotments on the Grand River near the mouth of the Gunnison, as the treaty of 1880 provided. It is not pretended to intimate that the above is the proper way to regard the transaction in all of its parts, but simply to indicate that such is the way these Indians look at it, and it is by no means easy to satisfy them of the justice and rightfulness of the proposed action on the part of the Government.

These Uncompahgre Indians had to be dealt with very cautiously by the commission. They have been distrust-

ful of it from the beginning. The fires of this distrust have been kept burning, it is believed, by the talk of persons who have no love for the Indian, and perhaps no love for anything save mischief.

The commission has sought by all due methods to overcome this feeling—has striven to satisfy these Indians that the Government is their friend and is working in every way for their benefit and advancement. Any other course than one of conservatism and conciliation under the circumstances would have been likely to produce trouble, and the trouble might have become widespread.

The Uncompahgres are the leading and controlling band of the Ute Indians. Their influence with the other bands is great. While trouble with them would have certainly broken down their growing interest in schools and farming operations, and have set them many years back in the march of civilization, it might have so extended as to produce in the other bands the same evil effects; indeed, it might have gone even further and culminated in an outrage that could only have been put down after the sacrifice of many lives and the expenditure of more treasure than a half dozen such reservations are worth. But whether any undue pushing of the work of allotment might have been followed by such disastrous results or not, it would, as before said, undoubtedly have had a damaging effect upon the civilization of the Uncompahgres and, what is not likely to be regarded, would have rendered any attempt in the near future at negotiation with the Uintahs looking to their acceptance of lands in severalty and the release of any part of their reservation an impossibility.

The commission having therefore found it impracticable to induce the Uncompahgres to take the proposed allotments of lands upon the stipulated terms, decided for the grave reasons heretofore suggested to stand to the policy of getting the leading Indians of the band to accept lands for farming purposes, so situated and in such quan-

tities—regular subdivisions of sections—as would make subsequent allotment to them easy, should Congress in its wisdom determine to let them have the lands without the payment of the $1.25 per acre so strenuously objected to by them. The commission could only work in this way through the agent for these Indians. As agent he had the right to locate them upon lands for purposes of cultivation, etc. His cooperation in the matter has been cheerful, energetic, thorough, and has been followed by most beneficial results. Already, under the arrangement, many farms have been opened on the Duchesne River, well fenced with wire and cedar posts, having necessary ditches for irrigation, and good comfortable houses all occupied by Uncompahgre families who are working to advantage and profit.

Steps have also been taken to provide a canal for a body of land on the south side of the lower Duchesne, containing about 4,000 acres, which, when houses and fences for it are constructed, will accommodate many other families of this band that are ready and waiting to take possession. So that, as before intimated, when these Indians can be induced to accept allotments, a large part of them will be able to receive the same from lands on which they have already been settled and engaged in cultivating. It should also be stated here that the Uintahs are also being prepared for severalty allotment, when the time shall come for negotiating with them, by the settling of many of this band upon well-watered and well-improved farms with excellent dwelling houses in the large and fertile valley of the Uintah River.

Respectfully submitted.

S. S. SCOTT,
T. A. BYRNES,
Ute Indian Commission.

Hon. D. M. BROWNING,
Commissioner of Indian Affairs, Washington, D. C.

DEPARTMENT OF THE INTERIOR,
COMMISSION FOR ALLOTMENT OF LANDS TO
INDIANS IN UTAH,
For Duchesne, Utah, December 23, 1895.

SIR: When your letter of the 10th instant was received I had just prepared a report with regard to the whole Uncompahgre situation here that furnishes the information desired in the first clause. The report is herewith forwarded.

With regard to the second and last clause, permit me to state that from an examination of the books it appears that, with the commission as at present constituted, the funds of the appropriation will not be exhausted, allowing, as you suggest, for payment of expenses of the commission in returning home, until the 25th day of May next.

Very respectfully,

S. S. SCOTT,
Chairman Ute Indian Commission.

Hon. D. M. BROWNING,
Commissioner of Indian Affairs, Washington, D. C.

UINTAH AND OURAY AGENCY,
White Rocks, Utah, January 14, 1896.

SIR: Referring to instructions directing me to cooperate with the board of commissioners appointed under the provisions of section 20, act of Congress, approved August 15, 1894, for service connected with the Indians, and the reservations of this agency, I have the honor to report that I have rendered to said commissioners all the assistance in my power, and that I believe they have accomplished as much of the purpose required of them as a proper regard for the best interest of the Government, and a just and humane respect for the rights of the Indians concerned, has permitted. It is a truth known to all that have cared to inform themselves in the premises, that the Uncompahgre Reservation contains insuffi-

cient land capable of being made agricultural for supplying the individual allotment-allowance provided for by law for the Uncompahgre Utes now residing upon it, and that the cry that white home seekers are waiting in disappointment and distress the opening of the surplus lands of this reservation for them to settle upon, is simply clatter that has originated with the impatient, greedy capitalists, and their unprincipled employees, who have been for years waiting and watching for expected events that would give them opportunities to grab and gobble up the asphalt mineral deposits that are located on the lands that will not be required in locating homesteads for the Indians.

During the service of the commissioners herein referred to the lands of the Uncompahgre Reservation that are so located as to be made available for agricultural purposes have been carefully observed, and in the plans working for the allotment of these lands to Indians full consideration has been given to the importance of providing canals and ditches for the conveyance of water thereto for irrigating purposes. Such canals and ditches have been commenced, and their construction so far advanced that they will practically be completed by the end of the present fiscal year, and embrace a system capable of irrigating all the lands of this reservation worth considering as agricultural and suitable for allotment. Besides this, a large number of homesteads with legal allotment of acreage have been laid out on section lines and inclosed with fence constructed of barbed wire on cedar posts that may be expected to last forty years. Upon 20 of these farms substantial log houses for dwellings have been constructed. These houses have paneled doors, double-sashed glass windows, single roof, and brick chimneys; they are respectable looking cottages. In my judgment the allotment of lands to the Uncompahgre Utes in the manner described has been commenced in a practical, humane, and common-sense way, and considering the peculiar provisions of the law under which the commissioners for such allotment are serving, no more

could have been accomplished, and to have attempted more would have jeopardized the best interest of the public service.

Referring to the instructions for me to try and convince the Indians properly residing on the Uintah reservation of the advantage that would accrue to them by relinquishing a portion of their lands, I have to state that from time to time during the past year I have presented this matter to representative men of these tribes, and feel authorized to state that the way is clear for the Commissioners to commence their work of negotiating with these Indians, as prescribed for them in section 22 of the act of August, 1894, herein before referred to, and I have no doubt that for a just and fair compensation these Indians can be induced to relinquish to the United States from the west side of their reservation 1,000,000 acres of their lands.

About the same number of farms have been paid out on the Uintah Reservation with same improvements as has been done on the Uncompahgre Reservation, and the preliminary work of allotting lands advanced fully as much, perhaps more, than has been accomplished with the Uncompahgres. I feel confident that if Congress removes the provisions for the Uncompahgres to pay for lands allotted to them, that when the spring opens the largest portion of that band can be located; that the Uintahs will cheerfully consent to give up sufficient of their lands to supply whatever deficiency may exist in suitable lands to locate the Uncompahgres upon, and that the commissioners now serving with these Indians will be able to make a great showing in their report of next season's work.

Very respectfully,

JAMES F. RANDLETT,
Major, U. S. A., Acting United States Agent.

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

H.R. Doc. No. 248, 54th Cong., 1st Sess. (1896) (LD 40)

HOUSE OF REPRESENTATIVES

54th Congress, *1st Session* Document No. 248

APPROPRIATIONS FOR CONDUCTING NEGOTIATIONS WITH CERTAIN INDIANS

LETTER

From

THE ACTING SECRETARY OF THE TREASURY,

Transmitting

A copy of a communication from the Secretary of the Interior, submitting an estimate of appropriation for the purpose of conducting negotiations with certain Indians.

FEBRUARY 18, 1896.—Referred to the Committee on Indian Affairs and ordered to be printed.

TREASURY DEPARTMENT,
February 17, 1896.

SIR: I have the honor to transmit herewith, for the consideration of Congress, copy of a communication from the Secretary of the Interior of the 15th instant, submitting an estimate of appropriation ($5,000) to enable the Secretary of the Interior to negotiate with the Un-

compahgre tribe of Indians and with the Indians residing upon the Uintah Reservation, in the State of Utah, for modification of treaties.

Respectfully yours,

S. WIKE,
Acting Secretary.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, February 3, 1896.

SIR: In compliance with your informal direction, I have the honor to submit herewith draft of an item, in duplicate, to be inserted in the Indian appropriation bill for the next fiscal year, authorizing negotiations with the Uncompahgre Indians and Indians residing on the Uintah Reservation, Utah, for such modifications of existing treaties and agreements with said Indians, and such changes in their reservations as may be deemed desirable, no agreement to be valid until ratified by Congress, and appropriating the sum of $5,000 for that purpose.

The history of the efforts made to carry into effect the legislation as to these Indians contained in the act of August 15, 1894 (28 Stat. L., pp. 337, 338), and the causes which in my opinion render this proposed legislation desirable, are so fully set out in office report of January 14, 1896, that I do not deem it necessary to repeat them herein, but transmit two copies of said report and two copies of the proposed item, and have the honor to recommend that one copy of each be transmitted to the Senate Committee on Appropriations and the other

to the Committee on Indian Affairs, House of Representatives, with recommendation of favorable action thereon.

Very respectfully, your obedient servant,

D. M. BROWNING,
Commissioner.

The SECRETARY OF THE INTERIOR.

[Indorsed.]

DEPARTMENT OF THE INTERIOR,
February 15, 1896.

Respectfully forwarded with my approval, through the Honorable Secretary of the Treasury, with the recommendation that the within item of appropriation be inserted in the Indian appropriation bill and be immediately available.

HOKE SMITH,
Secretary.

Draft of item proposed to be inserted in the Indian appropriation bill.

To enable the Secretary of the Interior to negotiate with the Uncompahgre tribe of Indians and with the Indians residing upon the Uintah Reservation, in the State of Utah, for such modification of existing treaties and agreements with said Indians, and such change in their reservations as may be deemed desirable by said Indians and the Secretary of the Interior, five thousand dollars, or so much thereof as may be necessary, the same to be immediately available; but no agreement made shall take effect until ratified by Congress.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, January 14, 1896.

* * * *

S. Doc. No. 161, 54th Cong., 1st Sess. (1896) (LD 41)

SENATE

54th Congress, *1st Session* Document No. 161

IN THE SENATE OF THE UNITED STATES

MARCH 11, 1896.—Laid on the table and ordered to be printed

The VICE-PRESIDENT presented the following:

LETTER FROM THE SECRETARY OF THE INTERIOR, IN RESPONSE TO THE SENATE RESOLUTION OF THE 4TH OF MARCH, AS TO THE REASON THE NONAGRICULTURAL AND UNALLOTTED LANDS OF THE UNCOMPAHGRE INDIAN RESERVATION HAVE NOT BEEN RESTORED TO THE PUBLIC DOMAIN AND PROCLAIMED OPEN TO ENTRY AND LOCATION.

DEPARTMENT OF THE INTERIOR,
Washington, March 10, 1896.

SIR: I am in receipt of Senate resolution of the 4th instant directing me to inform the Senate for what reason the nonagricultural and unallotted lands of the Uncompahgre Indian Reservation have not been restored to the public domain and proclaimed open to entry and location as prescribed by sections 20 and 21 of the act of Congress approved August 15, 1894, entitled "An act making appropriations for the current and contingent ex-

penses of the Indian Department." etc.; and, further, to inform the Senate when, in my judgment, said lands will be opened to entry and location.

In response to said resolution I have the honor to call your attention to pages 10 and 37 of my annual report for the fiscal year ending June 30, 1895, a copy of which I herewith transmit. That report sets forth the fact that valuable discoveries of "gilsonite" have been explored by officers of the Geological Survey on this reservation since the date of the passage of the act of August 15, 1894, supra, and shows that if these lands are opened to entry in the ordinary way the Government would be deprived of extensive profits which should go into its Treasury.

The information set forth in my report with reference to the valuable mineral on said land had not been so fully brought to the attention of Congress at the date of the passage of the act providing for the restoration to the public domain of the unallotted nonagricultural lands, and in that report I recommended such legislation as would provide for the disposal of the gilsonite deposits by lease or sale to the highest bidder.

As to the time when said lands will be opened to entry and location under the provisions of the act of August, 1894, I have to state that the matter of said opening is wholly under the control of the President, and I am not at present advised as to what his intentions are in that respect.

Very respectfully,

HOKE SMITH,
Secretary.

The PRESIDENT OF THE SENATE.

[Extract from Annual Report of the Secretary of the Interior, 1895, p. 10.]

Uncompahgre Reservation.—The Commission provided for by the act of Congress was appointed to visit the Uncompahgre Reservation and to allot agricultural lands to the Indians there located. I am not prepared to concur with that portion of the report of the Commissioner in which he objects to crediting the trust fund of these Indians with the lands assigned to them. If they are given agricultural lands, as the agreement specifies, I see no reason why the credits should not be made upon the trust fund, unless the delay in the allotment is cause for complaint on the part of the Indians.

In that portion of this report which discusses the work of the Geological Survey will be found an informal report from the geologist who has examined the gilsonite upon the lands of this reservation which will not be needed for Indian allotment and which belongs to the Government. It will be seen that these deposits while they cover only a small area of land, are of immense value.

If they are open to entry in the ordinary way a few persons will obtain them at practically no cost, and shortly thereafter they will become the property of large companies engaged in using this mineral. I believe the true policy should be for the Government to sell these deposits to the highest bidders, or else to lease them. If they are disposed of under existing law a few thousand dollars will be picked up by the enterprising men who first go upon them, and then enormous profits, which at least in part should go into the Treasury of the Government, will be made by the companies organized to operate them.

I recommend the passage of such legislation as will provide for the disposal of the gilsonite deposits by lease or sale to the highest bidder.

[Extract from Annual Report of the Secretary of the Interior, 1895, p. 37.]

Mineral deposits on Uncompahgre Indian Reservation.—Mr. Eldridge, of the Survey, was detailed informally to examine the mineral resources of the Uncompahgre Indian Reservation. He reports that gilsonite is the only mineral of known commercial value occurring on the reservation. He finds a number of large veins varying from 4 to 12 feet in width and of unknown but evidently considerable depth, from their geological relations. This indicates a vast deposit of gilsonite.

The bituminous shale, sandstone, and limestone might be of commercial value under favorable conditions for transportation. Practically the same materials elsewhere are employed either for paving purposes or made to yield up their hydrocarbons as commercial oils.

The gilsonite occurs as the filling of extensive cracks in the earth's crust. The deposits are therefore fissure veins. They are all nearly or quite vertical, and their general trend is north 45 degrees to 55 degrees west, a direction common to many of the folds in the mountain and plateau regions adjoining.

The number of important veins of gilsonite at present known is six—four in the eastern half of the reservation, one probably crossing the western edge of the reserve near the fortieth parallel, and one in the opened strip between the Uncompahgre and Uintah reservations, near Fort Duchesne, the southeastern end of which perhaps lies within the Uncompahgre Reserve.

Of the four veins in the eastern half of the reservation, one—the Black Dragon—is exposed on a tributary of the West Fork of Evacuation Creek, 20 miles south of White River, near the parallel of 39° 45′. This vein may be traced to the head of Asphalt Creek, and has a known length of between 3 and 4 miles. Its width at an opening

near the southeastern end of the fissure as exposed is 8 feet 6 inches; from this point southeastward the diminution in size is very rapid.

The second and third veins in the eastern portion of the reservation are known as the "little Bonanza" and "Big Bonanza," the former to the west of the latter. They are approximately parallel, and from 200 to 500 feet apart. They were traced to the north of White River for nearly 3 miles, and Mr. McAndrews, of the Indian police, states that he has followed them southeastward across the river quite to the Colorado line, in all, a distance of 10 or 12 miles. The maximum width of the Little Bonanza observed was 9 feet, of the Big Bonanza 13 feet 6 inches, but locally the Little Bonanza exceeds the Big Bonanza in width.

The "Cowboy," the fourth and largest of the important group of gilsonite veins in the eastern portion of the reservation, lies about 2½ miles northeast of the Bonanza veins, with which it is parallel. This vein has thus far been found only north of the river, but it here has a probable length of at least 5 miles, being clearly defined in outcrop for over half this distance, while for the remainder evidences of its presence exist in the float particles found in the soil and wash covering it. The maximum thickness of this vein was found to be 18 feet.

The thickness of the veins varies from the figures given above to 0 at the ends, and they are observed to widen and contract from point to point; but for much of the lengths given they appear to maintain an excellent workable width, from 4 to 12 feet.

The vein on which the St. Louis Gilsonite Company have opened a mine, lying 3 miles east of Fort Duchesne, is the original discovery. It is of the same nature as those already described, but is only about 4 feet wide, a width, however, held with little variation for between 1 and 2

miles, possibly even farther. The vein near the western edge of the reservation has not yet been visited.

The discovery of such veins is a matter for the prospector rather than for the geologist, as the position of a crack in broad and gently folded strata is undeterminable by any structural laws.

The amount of gilsonite in the region examined is enormous, for the depth of the fissures, though unknown, can not but be considerable—from 1,000 to several thousand feet—and, with their length and width, is indicative of phenomenal yield.

The presence on the Uncompahgre Reservation of minerals other than that already referred to is extremely questionable, particularly so in the case of the metallic ores—zinc, lead, copper, silver, gold. The entire area of the reservation, so far as a general survey and the evidence of earlier explorers (Hayden and others) show, is one of unaltered sedimentary rocks of Eocene age, devoid of all traces of eruptive action past or present.

The Survey has also contributed valuable assistance to other bureaus of the Department in reporting as to the feasibility of irrigation at designated points and in the examination of alleged mineral deposits.

Excerpts from 30 Cong. Rec. (1897) (LD 45)

CONGRESSIONAL RECORD—HOUSE

MARCH 20

* * * *

[102] Mr. SAYERS: I would like to ask the gentleman if the item in the bill with reference to the Uncompahgre Reservation meets his approbation?

Mr. SHERMAN. It is in the bill.

Mr. SAYERS. I ask if it meets the approbation of the gentleman from New York?

Mr. SHERMAN. It does not, and did not in conference committee. It was one of the items that the House conferees did not like, but we were obliged to accept it.

Mr. SAYERS. Then the gentleman thinks it a vicious item?

Mr. SHERMAN. I wish it were not in the bill. I opposed it as strongly as I could. It did not meet my approval, but I have stated the reasons why it was incorporated in the bill.

Mr. COOPER of Wisconsin. I would like to ask the gentleman [103] from New York a question for my own information. I wish to ask him with reference to the insertion of the item regarding the Uncompahgre Indian Reservation in Utah, about which the gentleman from Texas has just made inquiry. As I understand it, the United States Government has made a survey, has it not, of this Uncompahgre Reservation?

Mr. SHERMAN: A geological survey.

Mr. COOPER of Wisconsin. It has made a geological survey?

Mr. SHERMAN. Yes.

Mr. COOPER of Wisconsin. And has published the result of the survey in an official document?

Mr. SHERMAN. It has.

Mr. COOPER of Wisconsin. Setting forth definitely that that reservation contains asphaltum mines of very great richness?

Mr. SHERMAN. Or gilsonite; yes.

Mr. COOPER of Wisconsin. Gilsonite; the same thing.

Mr. SHERMAN. Yes; there is such a publication as that. The gentleman is correct.

Mr. COOPER of Wisconsin. Said to be among the richest asphaltum mines or gilsonite mines in the world. This bill proposes, does it not, to turn over to anyone who can hurry up and get onto these immensely rich properties the right to own them in fee simple for nothing?

Mr. SHERMAN. Oh, no; not for nothing.

Mr. COOPER of Wisconsin. For how much an acre?

Mr. SHERMAN. It proposes to open them up under the mineral-land laws. I believe the price is $5 an acre.

Mr. COOPER of Wisconsin. Five dollars an acre! Is that all the compensation the Government is to receive after having discovered and definitely located these immensely rich mines?

Mr. LACEY. The law contains further provisions with reference to working them.

Mr. SHERMAN. It is proposed to open up these lands under the mineral-land laws of the United States precisely as other mineral lands have been opened up for a great many years, precisely as lands which have contained gold and silver have been opened up. And my friend would hardly contend, I imagine, that gilsonite is more valuable than those metals. This land is to be opened up under precisely the same laws.

Mr. COOPER of Wisconsin. In no previous survey has the Government of the United States definitely located and then published to the world the location of rich gold mines and then turned them over to any person who could get onto them for $5 an acre.

Mr. SHERMAN. I can not say where it has done so.

Mr. COOPER of Wisconsin. Then the analogy which you have alluded to is not a good one. Now, do you think it wise and proper for the United States, knowing itself to be the owner of exceedingly rich asphaltum mines, knowing the exact location of those mines, they being the property of all the people, to turn them over to anyone who can get upon them, the first one to reach them, for $5 an acre, and no other compensation?

Mr. SHERMAN. Why, I think it is wise for the Government to pursue a consistent policy. If it is going to open up any mineral lands, they should be opened up in the same way as such lands have been opened up for fifty years. I do not know that there is any special reason why a new policy should be pursued in reference to this particular field or this particular mineral. I do not know why this should not be opened up in the same way that all other mineral lands, for all time, have been opened up in the United States.

* * * *

Mr. SHERMAN. This bill opens up the gilsonite property on the Uncompahgre Reservation, which is only an Executive order reservation, these Indians having no fee title to the reservation. It opens up these lands for entry under the mineral-land laws of the United States. There is no question but what that is precisely what it does.

Mr. SAYERS. Will the gentleman allow me to ask him this question, in the utmost good faith, because I have heard a great deal about this particular reservation?

Mr. SHERMAN. Certainly.

Mr. SAYERS. This matter has been pending in Congress for the last three or four Congresses.

Mr. SHERMAN. In one form or another.

Mr. SAYERS. What I want to ask the gentleman is this: Was there any information before the conferees of the House on this bill that there was an association, a syndicate of persons, who are interested in the passage

of this measure; and were not the conferees of the House told that if they did not accept that amendment that the bill should fail? Now, if the gentleman can answer that question I will be obliged to him.

Mr. SHERMAN. The conferees were not told that there was any combination to seize this land. I believe that statement was made, in effect, in the discussion in the Senate. The conferees were told, of course, by the Senate conferees that this provision in its present form, somewhat modified from the form in which the Senate passed it, must be accepted; that the Senate would agree to nothing less.

Mr. SAYERS. Did not they say that if it was not accepted that the bill should fail?

Mr. SHERMAN. The Senate conferees gave it as an ultimatum, substantially, that this provision must be in the bill.

Mr. SAYERS. I think this House ought to reject this bill on that account.

* * * *

[104] * * * The provision (which is purely legislative and subject to a point of order under the rules of both Senate and House) in regard to the Uncompahgre Indian Reservation, or, more properly, the Ute Reservation, for I think that region of country is owned by the Utes formerly of southern Colorado—this provision is one to which I specially invite the attention of gentlemen on both sides of the House, because if it is not considered now, it will have to be considered hereafter, and unless I am greatly deceived, will come back to plague us. The provision is as follows:

> That the mineral lands of the Uncompahgre Indian Reservation in the State of Utah are hereby declared open to public entry under the mineral-land laws of the United States, and no person shall be allowed to make more than four claims on lands containing gilsonite. And on and after January 1, 1898, all of said reservation unallotted to Indians

shall be open to public entry under the land laws of the United States.

I do not know anything about what transpired upon this subject in the committees of the last Congress—I presume nothing except what appears on the face of this bill; but what took place in the preceding Congress satisfies me that this provision ought not to pass. It puts these asphalt deposits, which are said to be exceedingly valuable, far more valuable than any of our mineral lands—it puts them under the mineral-land laws, so that they may be disposed of at, I believe, $5 per acre. It was shown to the satisfaction of the Committee on Indian Affairs in the Congress preceding the last that this deposit of asphalt was very extensive, and that combinations, syndicates, were even then forming for the purpose of getting control of those asphalt lands. This is the only important deposit of asphalt as yet discovered in our country or in North America. We are dependent now upon the Island of Trinidad, and perhaps islands in the Caribbean Sea, and some portions of Cuba, for this material. Those are all the deposits of asphaltum that have been discovered in America, although it is said to be found in large quantities in Asia Minor.

The opening up of this great deposit of asphaltum under proper safeguards against monopoly will be of enormous value to the United States. This provision involves vast interests. No one can overestimate the value of the property which is authorized to be given up to syndicates and monopoly by the apparently innocent provision I have quoted from this bill.

Let us save something from monopoly. In all likelihood this deposit of asphaltum (gilsonite), unless sheltered by provident legislation, will give rise to a most disreputable and dishonorable event in the history of Congress. We seem of all nations the most afflicted by combinations and syndicates of great influence in legislation. The case is a clear one. The only deposit of this valuable material which has so far been discovered in

the United States is the one on this Ute Indian Reservation. It is now under the absolute control of Congress, and it is now proposed to turn it over absolutely to a syndicate formed to control it several years ago without any safeguards against the monopoly certain to follow unless guarded against by proper legislation.

* * * *

* * * The question will come up again—it will force itself upon us within a few years if we make a mistake—whether or not whatever is realized from this deposit ought not to be held for the benefit of the Indians—the Utes—who have a possessory title to these asphalt lands. Every Indian reservation that was occupied by Indian tribes north of the upper Missouri was held by the same title by which the Utes hold this land, yet we have recognized their titles as valid and have paid them for their lands. We paid the Blackfeet and the other tribes upon exactly the same basis as if they had held those lands by final title, and ultimately we shall do the same with the Ute Indians. I hope, therefore, gentlemen will take time to consider this question. Let this bill go over, and let us have a little time for investigation.

* * * *

[105] Now, it occurs to me that, if the House agrees with myself and others on this subject, unanimous consent might be asked (if it be in order) to drop from the bill this provision with reference to the Uncompahgre Indian Reservation. Let that be left out, if it can be done by unanimous consent.

Mr. SAYERS. I understand the gentleman from Georgia says that he does not approve of this amendment?

Mr. MADDOX. I do not; and I do not think that any member of the committee does.

Mr. HOLMAN. Then suppose you strike out both provisions.

Mr. MADDOX. I should not object, so far as I am individually concerned. But I think this provision with

reference to the Uncompahgre Reservation should be stricken out at all events.

Mr. HOLMAN. Suppose you ask unanimous consent to strike both out.

Mr. MADDOX. I think the chairman of the committee will probably make that request.

Mr. Speaker, it is suggested that I ask unanimous consent to strike out this provision with relation to the Uncompahgre Reservation.

Mr. HOLMAN. And also the forty-four-thousand-dollar provision.

Mr. MADDOX. Let us take one at a time.

So far as the other provisions of the bill are concerned, while I do not ask gentlemen who have not been members of a former Congress to take my word, yet, if it be worth anything, I would state that this bill has been carefully considered. It will not be bettered by a further delay, and I am willing to take the responsibility for my part in framing the bill as it stands. Otherwise I should have offered a minority report.

Mr. HOLMAN. Both of these provisions were inserted by the Senate, I believe?

Mr. MADDOX. They were.

Mr. DOCKERY. I suggest to the gentleman that he ask unanimous consent to strike them out.

Mr. MADDOX. Certainly.

Mr. COOPER of Wisconsin. The gentleman understands, does he not, that these lands are worth millions of dollars?

Mr. MADDOX. Yes, sir; I do.

Mr. COOPER of Wisconsin. Do you think that you have, or we have, as legislators, any right to sell these lands for $5 an acre?

Mr. MADDOX. I do not; and I do not think that any man ought to be allowed to make four settlements, as an individual, on them, either.

Mr. COOPER of Wisconsin. Do you not think that we ought to sell that property, that we know to be worth

millions of dollars, as we would sell our own private property—that is, to the highest bidder, or else retain the lands and get royalty from them on the minerals which we know to exist there?

Mr. MADDOX. I do; and my suggestion is that we now, by unanimous consent, strike this provision entirely from the bill, and then I think that the bill should pass without objection.

Mr. DOCKERY. That is right.

Mr. MADDOX. Now, Mr. Speaker, if I am in order, I will ask unanimous consent that we strike from the bill this provision on page 67.

The SPEAKER. What is the clause the gentleman proposes to strike out?

Mr. SAYERS. The clause on page 67, from lines 1 to 8, inclusive.

Mr. MADDOX. That is correct, Mr. Speaker, lines 1 to 8, inclusive, on page 67.

The SPEAKER. The Clerk will read the provision proposed to be stricken out.

The Clerk read as follows:

> Strike from the bill the following words:
>
> "That the mineral lands of the Uncompahgre Indian Reservation, in the State of Utah, are hereby declared open to public entry under the mineral land laws of the United States, and no one person shall be allowed to make more than four claims on lands containing gilsonite. And on and after January 1, 1898, all of said reservation unallotted to Indians, shall be open to public entry under the land laws of the United States."

The SPEAKER. The gentleman from Georgia asks unanimous consent to strike this provision from the bill. Is there objection?

Mr. BARTHOLDT. I object.

Many MEMBERS. Oh, no.

Mr. JOHNSON of Indiana. I hope the gentleman will not insist on his objection.

[106] Mr. BARTHOLDT. I must insist.

Mr. JOHNSON of Indiana. It will simply compel a number of members to vote against the bill. I regard it in its present form as a profligate waste on the part of the Representatives, and I for one can not pretend to support the bill with this provision in.

* * * *

Mr. SHERMAN. Mr. Speaker, I now desire to renew the request, which was originally made by my colleague from Georgia [Mr. MADDOX], that lines 1 to 8, inclusive, on page 67, be stricken from the bill. I ask that my colleague from Missouri [Mr. BARTHOLDT] be allowed three or five minutes to make a statement, he having objected heretofore and desiring to make a statement before withdrawing his objection.

The SPEAKER pro tempore (Mr. HENDERSON). The gentleman from New York asks unanimous consent that the gentleman from Missouri be allowed three minutes to express his views. Is there objection? [After a pause.] The Chair hears none.

Mr. BARTHOLDT. Mr. Speaker, I have objected to the striking out of this provision in the bill because I am thoroughly impressed with the justice of this paragraph, the assertion of my distinguished friend from Texas [Mr. SAYERS], that it is robbery, to the contrary notwithstanding. I am somewhat conversant with the facts in this case, and for that reason, perhaps, I may be pardoned for occupying the attention of the House for a few minutes. At the present time the American people are compelled to pay from $30 to $60 a ton for asphaltum, imported, as nearly all of it is, from foreign lands. If you open this reservation, [107] within a few months the price of asphaltum will go down from $60 to $15 or $10 a ton, and that article could then enter into manufacturing processes where it can not now be used because of its expensiveness. I regard it a criminal neglect, if not a

crime, that these lands, upon which neither bird, nor fish, nor beast can live, have not been opened to civilization heretofore. There is no wrong to the Indians involved in this matter, because not a single Indian is living upon this territory to-day. The last Congress passed this provision in both Houses, and the President signed the bill containing it. Yes; your Democratic President signed a bill containing this very provision, or one very similar to it; and it is my honest judgment that your Secretary of the Interior should have been impeached for not enforcing and carrying out the law of Congress in this regard.

It is said that private interests are involved in this matter. Well, where would we be, Mr. Speaker, what would be the aspect and condition of our country, if it were not for individual enterprise and private interests? It is true that there are a number of gentlemen in the city of St. Louis, which I have the honor in part to represent upon this floor, who are operating a gilsonite or asphaltum mine in the neighborhood of this territory. That is true; but all these gentlemen desire Congress to do is to open these lands, so that the St. Louis Company can build a railroad for the purpose of enabling it and other companies that may be organized to compete with the importers who bring that article from Trinidad and other foreign countries.

* * * *

Mr. McRAE. Why is it that these lands can not be opened under the act of August, 1894? Why is it necessary to pass this provision?

Mr. BARTHOLDT. I will answer the gentleman. These lands are an Indian reservation, and are occupied at the present time by a tribe of Indians who were temporarily located there by an executive order of the President of the United States. They were told to stay there until better quarters could be found for them, and they occupy the lands at the present time—not the mineral lands, but the agricultural portion of the Uncompahgre Reservation. The commission that went out under the

authority of a law passed by the last Congress found that the lands which are proposed to be opened by this bill are of such a character that neither beast nor bird can live upon them; and there are no Indians nor any other people occupying any part or parcel of them now——

* * * *

The bill was ordered to be engrossed and read a third time; and it was accordingly read the third time.

The SPEAKER. The question is on the passage of the bill. The Chair supposes the House understands that the bill the passage of which is proposed has the provision relating to the Uncompahgre Reservation stricken out.

The question being taken on the passage of the bill, the Speaker declared that the ayes seemed to have it.

Mr. EVANS. I ask for the yeas and nays.

The yeas and nays were refused, only 15 members voting therefor.

The bill was passed.

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CONGRESSIONAL RECORD—SENATE
APRIL 14

* * * *

[712] The PRESIDING OFFICER. Unless otherwise ordered, the Senate will first consider the amendments proposed by the committee.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, at the top of page 67, to insert:

> That the mineral lands of the Uncompahgre Indian in the State of Utah are hereby declared open to public entry under the mineral-land laws of the United States, and no one person shall be allowed to make more than one claim on lands containing gilsonite. And on and after January 1, 1898, all of said reservation unallotted to Indians shall be open to public entry under the land laws of the United States.

Mr. JONES of Arkansas. Mr. President, I am not satisfied that this amendment ought to be adopted. As is known to every member of the Senate, this has been a bone of contention for many years, and the provisions of this proposition, as contained in the bill that passed the Senate at the last session, were perhaps more radical than those in the pending amendment. But I wish to call the attention of the Senate to the latter part of this provision. However, I will read it all:

> That the mineral lands of the Uncompahgre Indian Reservation in the State of Utah are hereby declared open to public entry under the mineral-land laws of the United States, and no one person shall be allowed to make more than one claim on lands containing gilsonite. And on and after January 1, 1898, all of said reservation unalloted to Indians shall be open to public entry under the land laws of the United States.

I inquired at the Indian Office to what extent these lands have been allotted; how many persons there are in this reservation who have had lands allotted to them. Not one single allotment has been made, I understand. The Indians who are on the reservation were carried there against their wishes. They were put there years ago, and have remained there under circumstances not as favorable, perhaps, as might have been, and when the gilsonite was discovered the proposition was immediately made to open the whole of the reservation, making no provision whatever for homes for the Indians. It seems to me that is not fair.

There is no recommendation on record, so far as I know, from the Secretary of the Interior or from the Commissioner of Indian Affairs in favor of this proposition. It has been reported against adversely, if I am correctly informed, by Commissioner after Commissioner

and by Secretary after Secretary. The office has been opposed to it all the time on the ground that it is not treating the Indians fairly or justly.

In this connection, I desire to ask the Secretary to read a report made by Colonel Randlett, a lieutenant-colonel in the Army, who for years has been assigned for duty as Indian agent at this reservation. I have a copy of a report made by him to the Commissioner of Indian Affairs, which I will ask to have read, as well as a copy of a letter directed to the Commissioner. I ask that the Secretary read them for the information of the Senate.

The VICE-PRESIDENT. The Secretary will read as requested.

The Secretary read as follows:

UINTAH AND OURAY AGENCY,
White Rocks, Utah, March 1, 1897.

SIR: With a desire to aid the honorable Commissioner of Indian Affairs in obtaining information relating to the present and prospective condition of the Uncompahgre Utes in connection with the proposition to open their reservation for settlement, I most respectfully submit as follows regarding my experience with these Indians, and my opinion with reference to providing advantageously for their future welfare. In the fall of 1886 the military post of Fort Du Chesne was established midway between the Uintah and Ouray agencies; and in April, 1887, I was assigned to duty there as commanding officer, with the understanding that it was supposed the peace of the surrounding country could be best preserved by the moral effect of the presence of the troops that were stationed at the fort for the avowed purpose of protecting the reservation rights of the Indians from the rapacity of unprincipled and lawless white people.

In 1893 the duties of acting agent at this agency were added to those of post commander. About this time it was competently decided that the Indians residing thereon had no vested rights in the lands of the Uncompahgre Reservation, but were simply occupants of United States

lands reserved under order of President Arthur, January 5, 1882, and that they were liable to be removed from such occupany at the pleasure of Congress. Consequently the hopes which these Indians had been encouraged to entertain, that they would eventually derive benefits from mineral leases of lands on this reservation, could never be realized. Knowing this, and from what had been observed during seven years, of the determination of the people who were seeking to gain possession of the asphaltum mineral deposits, it became my duty as agent for these Indians to design for their relief and to work up to the line planned. The situation showed that these Indians had been cruelly wronged by the commissioners that removed them from Colorado, under the treaty of 1880; that instead of locating them on Grand River in Colorado and in Utah, as they had been instructed, they forced them far beyond that vicinity, to the junction of Green and White rivers in Utah; that although they had been intrusted with hundreds of thousands of dollars provided by Congress for locating these Indians on agricultural lands, furnishing them with houses to live in, and providing them with implements of husbandry, etc., not a single Indian did they locate on agricultural land, not a single habitable house did they have constructed; and nothing remained in 1893 to show what these commissioners had accomplished beyond the getting of these Indians out of Colorado and dumping them in a locality which has proven an arid waste in summer with deathly frigid climate in winter, where, without sufficient shelters, the scanty clothing and meager rations furnished by the Department had been inadequate to prevent want and starvation, reducing their number to nearly one-half of what it was when they were brought from Colorado.

Upon careful personal exploration, competently assisted, of the bottom lands on Green River referred to by the Ute Commissioners in their report to their chairman, November 21, 1881, and published in the report of the Commissioner of Indian Affairs for that year, it was

found to be perfectly impracticable to attempt to make use of any of these lands for farming purposes, and that the report of these commissioners that "these bottom lands can be easily irrigated and made available by inexperienced labor" was a misrepresentation of facts, and that the Government had, since the date of that report, spent more than $25,000 attempting to provide for irrigating that same land without attaining the least success.

Further investigation showed that there could not be found on the whole of the Uncompahgre Indian Reservation proper 10,000 acres of land that could be brought under cultivation at any justifiable expense.

Having discovered that by some agreement appertaining to the work of the Ute commissioners of 1880 provisions had been made for locating a portion of the Uncompahgres upon certain lands belonging to the Uintah Reservation, "along the Du Chesne, from its junction with the Green River up to a point 8 miles above the mouth of Uintah," I decided to commence locating them there.

[713] The land of the river bottom comprised within the limits described available for irrigaiton does not exceed 15,000 acres. It was evident that sooner or later arrangements would have to be made to obtain more lands from the Uintah Reservation upon which to settle the Uncompahgres, if they were ever to be provided with farming lands for homesteads in Utah, and that preparation for this arrangement should be made at once. Some four or five families having already gone 20 miles above the 8-mile point on the Du Chesne, and located there without objection from the Uintah Reservation Indians, I concluded it would be best to encourage others to follow them, and, with the assistance of Lieut. L. M. Koehler, of the Ninth Cavalry, commenced a survey of the bottom lands of the Du Chesne as far up as the Uncompahgres had located, the result showing that by providing and maintaining seven main canals water could be taken from the Du Chesne and Uintah rivers (one canal from the

east side of the Uintah) sufficient to cover all lands from the 20-mile point named above down to the confluence of the Du Chesne with the Green River, estimated at 30,000 acres at least. After adopting this plan, I was able to obtain funds from the Department from time to time to continue this work.

The canals or main ditches are provided with substantial head gates. The longest and most important of these canals was taken out from the Du Chesne 10 miles above the bridge on the Price road. The head gate is just above where the first Uncompahgres located. It runs 2 miles below the bridge, and there the waste water flows to the river. It covers 16,000 acres of good agricultural land. Above the confluence of the Du Chesne and Uintah rivers there are now located twenty-two familities of the Uncompahgres.

The heads of these families have been supplied with good, comfortable houses, and given the stipulated allotment allowance of agricultural land. These homesteads are all fenced with cedar posts and barbed wire in a manner that will last forty years, the fences running on sectional lines as per recorded official survey.

Water ditches and laterals have been provided, so that these farms are amply supplied with water for irrigation. On eighteen of these good crops were harvested last season, and each from 5 to 40 acres were seeded to lucerne, which will supply hay next season. All these families are living in houses provided for them, and are enjoying comfortably equipped homes, to which they are constantly, in their own way, adding improvements.

For the benefits of these Indians a fine school plant has been established. It is located 3 miles above the point where the Uintah and Du Chesne meet, comprises three two-story brick buildings, one being used for study and recitations, one for boys' dormitory, the other for girls' dormiotory, general mess hall, and quarters for female industrial teachers. The other buildings are a two-story frame laundry, a storehouse for property, a playhouse or

gymnasium for boys, a stable for animals, and a fine residence for the agency physician. One-half mile from the school the Episcopal denomination has established a mission, and has erected and completed to the finish a beautiful chapel (that would be so called in any rural district) and a neat college for the resident missionary. The missionary people are doing good work there, and are very popular with the Indians, both old and young.

I am daily expecting to be relieved from duty as acting Indian agent, and in submitting this my last report referring to the Uncompahgres wish to urge upon the Department the great importance of having the work that has been commenced, as reported herewith, energetically continued upon the lines established. The most important feature to be considered is the care and keeping of the water ditches. The rivers from which they are taken are always greatly swollen in the spring, and for a few years there will be danger of the head gates being destroyed; the soil through which all the main canals pass is light and washes away easily, so that the water courses are liable to be obstructed by drifting sands; these interests will require the attention of a competent, reliable man for superintendent of water ditches to be added to the list of employees allowed for the Ouray Agency, and I recommend that such a position be established at a salary of $1,000 per annum, and that the place be given to John McAndrews, who has been employed at the Ouray Agency as chief herder and chief of police during the past twelve years. McAndrews has assisted in the work of surveying and constructing the water improvements from the commencement; he is a man of excellent judgment, an all-around useful man on the agency, capable of performing any work that emergency requires. He knows every Indian of the reservation well, is a man of excellent moral character, and has great influence among these Indians; indeed, the Indians think better of him than any other living white man, and he can do better with them than any other person can.

It is to be regretted that the appropriation for the coming fiscal year is to be insufficient to insure a continuation of constructions for these Indians as extensively as during the past year. There is on hand material, consisting of logs, for a few more houses, and posts and wire for three or four more 160-acre tracts. There is on hand to my credit in the Deseret National Bank, at Salt Lake City, $2,000, reserved for expense of repairs on irrigating canals during the present spring. Of this money, $1,000 belongs to Uintah Agency and $1,000 to the Uncompahgres.

It will be absolutely necessary during this spring to expend this money for the purpose for which it was furnished, and I trust that the authority required for this may be granted to my successor at a very early day. These Indians have been led to believe that the Uncompahgre Reservation was given to them absolutely, to occupy and hold under the same conditions that the Uintah Reservation is owned by the Indians residing thereon. How they will receive the opening of their reservation on the provisions of Senator CANNON's amendment to the Indian appropriation bill no one can tell.

I am of the opinion that if this proposed measure becomes a law more trouble will be experienced from the whites than from the Indians. There are a few White River Utes, residing on the lands where the largest deposit of asphaltum is located, that it will be hard to appease. How far their desperation may lead them, or how far it will extend among other Indians, I make no prediction. The Uncompahgres have always been peacefully inclined, and I am firmly convinced, if proper provisions are made for locating them according to the plans herein named, that under the management of a judicious and energetic agent, assisted by the trained and faithful employees that I leave him, the Uncompahgres will accept the situation peaceably, and that no serious trouble with them need be experienced.

I regret that I am unable to forward an outline map with this report, but Mr. E. E. White, of the Interior

Department, will be able to explain with regard to all locations.

Very respectfully,

JAMES RANDLETT,
Lieutenant-Colonel, U.S.A., Acting U.S. Indian Agent.

The honorable COMMISSIONER OF INDIAN AFFAIRS,
Washington, D.C.

UINTAH AND OURAY AGENCY,
White Rocks, Utoh, March 7, 1897.

SIR: I have the honor to request the consideration of the Department to the amendment of the Indian appropriation bill providing for the opening of the Uncompahgre Indian Reservation, which passed Congress March 3, 1897, and which failed to become law by its not receiving the approval of the President.

As published in the newspapers of the country, this amendment ignores entirely the rights and interests of the Indians residing on a reservation which was created for their exclusive benefit by proclamation of a President of the United States, which proclamation when considered in just reasoning appears unquestionably as intended to accord and secure to the Uncompahgre Utes an abiding place where they could not be molested or interfered with in their right of occupancy, and which right of occupancy should last until the General Government should carry out and complete the promises and stipulations contained in the treaty of 1880, under provisions of which they gave up their land in Colorado and were removed to Utah.

I have been stationed among these Indians ten years, the last four years of which time serving as their agent, and from my personal knowledge they have all this time been patiently awaiting the fulfillment of the promise made to them by the Government in treaty referred to, that they should be provided with homes and agricultural

land for the establishment of homes where they might hope to become self-supporting and fitted for citizenship in civilized communities. The amendment referred to implies that some of these Indians have been allotted land on their reservation, and that it would be possible under provisions already made to locate the remainder of the band before the 1st of January, 1898; when the truth is that not a single Indian has been allotted an acre of land on the Uncompahgre Reseravtion, and that no provision exists whereby such allotment could possibly be made between present time and time set in the amendment for the general opening of this reservation.

Had the Indian appropriation bill referred to become a law, the effect of this amendment would have been to permit the Indians residing on the Uncompahgre Reservation to be overrun and completely dispersed by asphaltum prospectors and claim locators, and every semblance of justice and fair dealing on the part of the Government in dealing with their interest would have been outraged. Admitting that these Indians have no vested rights in the lands of their reservation, as their former agents have believed and have taught them to believe they possessed, I am sure that the Congress of the United States, if properly informed in the premises, will never enact laws for the purpose of banishing them out of Utah or for evading strict compliances with treaty stipulations made with them.

I therefore, in behalf of these Indians, as their agent, beg that this communication may be referred for the consideration of the proper committees of the two Houses of Congress, with recommendation from the honorable Commissioner of Indian Affairs that no law be enacted for the opening of the lands of the Uncompahgre Indian Reservation for settlement by whites, excepting such portions of it as may be strictly classed mineral, until the Indians for whose benefit said reservation was set apart shall have been provided with homestead remunerations promised them for giving up their lands in Colorado under

treaty of 1880; and until such remunerations are made the opening of their reservation shall be confined to the limits described by the Commissioners appointed under act approved August 15, 1894, as mineral land not required for allotment to Indians as homesteads.

It is thought appropriate to add that of the 2,000,000 acres (estimated) within the limits of the Uncompahgre Reservation only small parts here and there are good grazing lands, on which the Indians keep their small bunches of cow stock, sheep, and ponies, and that in all the scattered patches of agricultural land there are not 10,000 acres capable of being brought under cultivation by irrigation at a reasonable expense.

Very respectfully,

JAMES F. RANDLETT,
Lieutenant-Colonel, U.S.A., Acting U.S. Indian Agent.

The honorable COMMISSIONER OF INDIAN AFFAIRS,
Washington, D.C.

UINTAH AND OURAY AGENCY,
White Rocks, Utah, March 23, 1897.

SIR: I have the honor to submit, as additional to my report of 15th instant that on the 4th of March, 1897, there were more than thirty location notices placed upon the lands of the Uncompahgre Indian Reservation, signed by Thomas Lloyd as agent, and that among the names of the persons so located appear those of Heber M. Wells, James T. Hammond, and Arthur Brown. Mr. Lloyd is known as State mine inspector of Utah, Heber M. Wells is governor of Utah, James T. Hammond is secretary of state, and Arthur Brown is supposed to be ex-United States Senator from Utah.

I consider this additional report, if not very important, very interesting in connection with the sentimental pleadings that have recently been made before the Congress

of the United States about the hazards and hardships that were experienced by the poor prospectors that discovered the mines in question, and as indicating what to expect for results if the locations made upon this reservation during the past two years are not annulled by an act of Congress.

Very respectfully,

JAMES F. RANDLETT,
Lieutenant-Colonel, U.S.A., Acting U.S. Indian Agent.

The honorable COMMISSIONER OF INDIAN AFFAIRS,
Washington, D.C.

Mr. JONES of Arkansas. Mr. President, I have no extended argument to make on this question. I have asked that the official reports of Lieutenant-Colonel Randlett, who has been in charge of this reservation as Indian agent for years, shall be read for the information of the Senate. He states that there is not one single square inch of this land allotted to any Indians, and yet the closing paragraph of the proposed amendment is that—

> On and after January 1, 1898, all of said reservation unalloted to Indians shall be open to public entry under the land laws of the United States.

It may as well be stated at once that it is to open the entire reservation, which is to be taken out from under these Indians, they to be driven away from their homes on the technical pretext that they have not a legal title to the land.

There are a number of instances where Indians are on land held under Executive order, but there is no place, I think, where the idea would be tolerated for a moment of driving the Indians off of their reservation simply because they were allotted to the locations they occupy by an executive order of the President.

There is, as I said in the beginning, as I understand it, no recommendation, and has been none from any Secretary of the Interior or Commissioner of Indian Affairs, recommending that this legisaltion be had. They have reported against it. It has been protested against by the officers of the Government. I suppose there [714] is no official report here by the Commissioner of Indian Affairs against the opening of this reservation, for the reason that his opinion has not been asked when there has been a proposition to put this legislation in appropriation bills or other bills.

I do not believe that the amendment ought to be adopted, but I will leave the matter with the Senate.

Mr. CANNON. Mr. President, except for the misrepresentation which has taken place concerning this question in another official body of the Government, it would be scarcely fair to detain the Senate at this time with any considerable presentation of the views of the proponents of the amendment. But, under the circumstances, it is due to the people who inhabit the State of Utah, and it is more especially due to the Senate of the United States, which has on more than one occasion approved an amendment of this character, that some full showing of the facts should be made.

I join with the Senator from Arkansas in a desire that no injustice shall be done to the Indians who inhabit the Uncompahgre Reservation; but, from a somewhat intimate knowledge of the situation there, I am at liberty to disagree with him as to the effect which the amendment, if enacted into law, would have upon the welfare of the Uncompahgre Utes.

In the firs place, no Secretary of the Interior and no Commissioner of Indian Affairs has ever reported against this method of settling the question. I beg the pardon of the Senator from Arkansas when I say he is distinctly in error in making the assertion with which he closed his remarks. On the contrary, the whole conduct of the Indian Office toward this question, so far as any conduct

has been made public, has been in the direction of securing the very result and by the very method proposed in this amendment.

It is true, sir, that there have been no allotments of lands to the Indians, but ample time is accorded under the amendment to make them. Every document which is presented here, every argument which has been made, indicates beyond the peradventure of a doubt that there are but 10,000 acres of agricultural lands within that vast domain of 2,000,000 acres.

Mr. JONES of Arkansas. Do I understand the Senator from Utah to say that the Indian Office was in favor of the amendment?

Mr. CANNON. I said that all that we have ever heard from the Indian Office would indicate that they were in favor of the method and the result proposed by the amendment.

Mr. JONES of Arkansas. I would be perfectly willing to let the amendment go over until to-morrow morning, and if the Indian Office shall recommend that it be adopted, I shall withdraw all opposition to it.

Mr. CANNON. There seems to be some occult intention in the mind of the Administration with regard to the Uncompahgre Indian Reservation, which we have never been able to discover. It has never yet been brought forward in an official recommendation to Congress.

Mr. COCKRELL. Will the Senator from Utah permit me to ask him a question?

Mr. CANNON. Certainly.

Mr. COCKRELL. How long has the Indian Office had the right and power to allot these lands to the Indians?

Mr. CANNON. Every since August, 1894.

Mr. COCKRELL. For nearly three years?

Mr. CANNON. To answer the inquiry of the Senator from Missouri fully, I will state that the Indian Office has expended $16,000 of the public funds in a professed

attempt to segregate and allot these lands, and not an allotment of one square inch of land has ever been made within the reservation. The commission appointed by the President under authority of law to expend the money for that purpose was furloughed more than a year ago, and there still remain funds in the hands of the Indian Office with which to carry on just such work as this, because the Indian appropriation bills contain general appropriations to be expended by the Commissioner of Indian Affairs for the allotment of lands in severalty in execution of the numerous statutes which are on the books.

Mr. President, a brief history of the situation may serve to enlighten the minds of Senators and demonstrate that instead of our proposing to rob the Indian or to rob the Government we are but reiterating the demand of citizens of the United States who are unjustly withheld from their own.

In 1882, by Executive order, there was set apart a tract of more than 2,000,000 acres of land in the eastern part of Utah as a so-called reservation for the Uncompahgre Utes, who had been removed from Colorado somewhat against their will. By the adroit manipulation of commissioners then in charge of the removal, the Indians only went upon this land as a halfway house, as a stopping place, thinking that some time they would acquire lands in severalty in some locality approved by them.

The Indians have remained there from that day to this without any serious attempt to allot their lands in severalty—blanket Indians, every one among them, buck, squaw, and papoose—furnishing an inducement to agents and officials of the Government to keep them in their present condition and prevent an allotment of the land in severalty, because, as the record will prove, there are some rather fat pickings for men who handle the Government funds and do not perform the service which they are appointed to perform in the expenditure of Government funds.

An illustration of the manner in which this question has been treated by the agents is furnished by the document which was read here, the communication from Lieutenant-Colonel Randlett, who says that the Indians had been taught to believe that the minerals in this reservation belong to them. By whom had they been taught that astonishing thing? Certainly by their agents; by the people who had access to them. The Indians only went upon this ground against their own remonstrance, never deeming for a moment that it belonged to them; but as time passed on men had a selfish interest in teaching to the Indian that he had some inalienable right to this property and that he must defend it; and the Indian is used as a shield.

The Indians never had any title to this ground. The money which the Indians received from the sale of their lands in the State of Colorado, at 12½ cents per acre, is now on deposit with the Government subject to the order of the Utes. One reason why none of these lands have been allotted in severalty is because the Indians refused to pay $1.25 an acre for this worthless land. It is just precisely the kind of land described in the communication from Lieutenant-Colonel Randlett, and the Indians do not want it.

The communication from Lieutenant-Colonel Randlett speaks of the extravagance of commissions. One commission was appointed to remove these Indians and establish homes for them. They failed to do this duty, according to the testimony of Lieutenant-Colonel Randlett. We have within our own knowledge the work and expenditure of another commission which failed to fulfill the requirements of the law. I make no criticism upon the individual gentlemen who composed the late Ute Commission. They were sent out there at an inopportune time; they were sent out to Utah in the beginning of winter to perform work on the top of the Rocky Mountains, and it was May before the snow was off the ground. The whole work was conducted with the same lack of knowledge on the part of the Interior Department; and, finally, when

they were ready to make their report, it is more than surmise or mere suspicion that they had orders, either written or oral, from the Interior Department of the United States, not to fulfill the law and not to continue the work.

It has been stated upon this floor—and I violate none of the decencies or proprieties of life when I reiterate the charge—that the Secretary of the Interior then in office promised positively to have the proclamation opening this reservation signed, and he failed to do so within the prescribed time or within his term of office; the subordinate officials of the Government, the commission expending this money, I have not the slightest doubt, acted under instructions and according to the example of the officer in chief.

There will be no danger of injury to these Indians if every acre of this land shall be taken. Lieutenant-Colonel Randlett's communication declares that the land is a desert in summer, and frigid, and almost unbearably so, in winter. The Indians hover about the agency, and every acre of land susceptible of cultivation has been designated by the Ute Commission. It can be surveyed, can be allotted to the Indians, and so far as the 900 Uncompahgre Utes are concerned, they can live after the opening of this reservation precisely as they live now, at the agency, in the enjoyment of the revenues from this Government afforded to them by the interest on the money which they received from the sale of their lands in Colorado.

Where is the injustice? Nobody is deprived of anything. If every inch of the ground of the Uncompahgre Reservation were taken, the Indians would not be deprived of that which is theirs. They are tenants at will of this Government upon that land—unwilling tenants at first, and only made willing by the improper conduct and advice of men paid by this Government to administer affairs. The Indians never would have dreamed of remaining an hour longer on the Uncompahgre Reservation

unless they were forced to stay there, if it had not been that men with a selfish end in view had taught the Indians that they had become the rightful owners of the minerals in that property.

There is a reason for all this, Mr. President; there is a reason why the opening of this reservation has been opposed violently in this Chamber, and still more violently elsewhere. The most unreasonable attacks have been made upon this attempt to give to American citizens that which belongs to all citizens, and to open for the benefit of the country that vast storehouse of wealth which belongs to all the people. At the present time the asphaltum business in this country is practically controlled by a trust. We consumed last year in the United States 161,000 tons of aspaltum, mostly brought from Trinidad, although we received some from South American countries and from Cuba, and we got some from Germany and some from France; but the great output was from Trinidad by a company the chief ownership of which is [715] coincident with the chief ownership of a paving company in the United States of America.

* * * *

Mr. PETTIGREW. I wish to state to the Senator right in this connection that these Indians are being moved onto the Uintah Reservation and allotted lands upon that reservation as fast as possible. They are being placed where the lands are fit for cultivation.

Mr. JONES of Arkansas. I should like to know where the Senator gets that information.

Mr. PETTIGREW. I get it partly from the letter which the Senator has had read.

Mr. JONES of Arkansas. That letter stated that the Indians were voluntarily going from this reservation to the other. They are not being moved by the Government. There is no home being provided for these Indians outside the reservation.

Mr. PETTIGREW. They are living on this reservation.

Mr. CANNON. Mr. President, I think both Senators are correct. Under the act of 1894 an appropriation of $16,000 was made available for the identical purpose stated by the Senator from South Dakota [Mr. PETTIGREW] in charge of the bill, and whilst it is true that the Government did not remove the Indians in the sense of forcing them to leave the Uncompahgre Reservation and go upon the Uintah Reservation, yet representation was made to them, through their interpreters and through their agents, looking to the gradual transfer of the Indians from the Uncompahgre lands to the Uintah lands. The Indians are voluntarily going over. In point of fact, the agency lies right between the two reservations, and the Uncompahgre Utes have always mingled with the Uintah Utes on terms of fraternity.

The passage of this bill, with this amendment exactly as it appears, will work no injustice to any one Indian; will work no injustice to the people of the United States. It will simply remove a question which has occupied altogether too much of the time of the Senate of the United States; it will remove the power of a trust to control one of the great commodities needed in the civilization of the country.

More than that, Mr. President, it will show that the Congress of the United States has some self-respect. It passed a law in 1894, and the Secretary of the Interior, for reasons best known to himself, but easy of surmise by any man who can read between the lines, chose to violate his word and violate that law, and refused to permit it to be carried out, and the Congress of the United States, now that it is confronted by it, can not do a better thing than to put right on an appropriation bill a provision for the absolute execution of a law which itself was on an appropriation bill.

* * * *

[716] Mr. RAWLINS. The act enacted in 1894 was recommended by the Secretary of the Interior, in the first place, in a report to the Committee on Indian Affairs of

the House of Representatives; secondly, in a report of the Committee on Indian Affairs of the Senate, of which, I think, the distinguished Senator was then chairman. This identical bill, containing substantially this provision, was also reported, I believe unanimously, by the Committee on Indian Affairs to the Senate. It enacted that these lands should be allotted to these Indians in accordance with the provisions of a treaty which had been entered into with them in 1880. The policy of allotment was decided, after full discussion, in 1894, by the act which was then passed.

Moreover, this legislation then received the approval not only of the Secretary of the Interior, but of the head of the Indian division in the Interior Department.

* * * *

MR. RAWLINS. Mr. President, it may be of assistance to the Senate to understand the precise status of this question. In 1894, in the Fifty-third Congress, a bill was introduced in the House of Representatives, which subsequently was passed into a law on the 15th of August, 1894. Section 20 of that statute provided—

> That the President of the United States is hereby authorized and directed to appoint a commission of three persons to allot in severalty to the Uncompahgre Indians within their reservation, in the Territory of Utah, agricultural and grazing lands according to the treaty of 1880, as follows:

Then there is quoted bodily in this section the agreement which was made with these Indians in 1880, at the time they sold their lands to the United States, in connection with other bands of Ute Indians in the State of Colorado. The confederated bands owned in Colorado 12,000,000 acres of land. As the result of the sale of those lands they realized something like $1,700,000; and, in accordance with that same agreement, if those Indians took their allotments in Colorado upon their reservation,

they were to receive them without consideration. If they got lands from the United States off their reservation, their agreement provided that they should pay for the lands at the rate of one dollar and a quarter per acre. The commissioners having charge of this matter virtually forced the Indians into Utah upon these lands.

In 1882, by Executive proclamation, the Uncompahgre Indian Reservation was set aside. They were to use it in sufferance. The question of the title or interest of these Indians to these lands was referred by the Committee on Indian Affairs of the House of Representatives to the law officers of the Interior Department. After a careful examination, those officers reported both to the House of Representatives and to the Senate that these Indians had no interest in these lands; that they were mere tenants at sufferance; that the Government had a right to make allotments of the lands to them within the reservation or off the reservation, but that, in accordance with their express agreement with the Government, they should be required to pay at the rate of one dollar and a quarter an acre for the lands that might thus be allotted to them.

The Secretary of the Interior approved this legislation and recommended it. It was passed. The commissioners were directed—and this was mandatory—to make these allotments, and an appropriation of $16,000 to defray the expenses was provided in that same bill. As soon as the allotments were made, the lands were to be thrown open for settlement. That is the situation of those lands of these Indians at the present time. The President or the Secretary of the Interior may at any time by Executive proclamation—and it is their duty under the provisions of this act—declare these lands open to entry under the public-land law to do just what this bill provides.

The distinguished Senator from Arkansas [Mr. JONES] states that this legislation has not been submitted to the Interior Department for its consideration or report. He is certainly mistaken upon that subject. For more than

six months this very matter was under the consideration of the Indian Bureau, of the Secretary of the Interior, and of both branches of Congress. It was fully discussed both in the House of Representatives and in the Senate. After such discussion the Senate and the House decided that these Indians ought to take their lands in severalty, and that the unallotted lands should be thrown open to entry under the public-land law. In respect to the asphaltum or mineral lands, it was provided that they should be disposed of substantially, almost precisely, as is provided in the pending amendment to this appropriation bill.

The only necessity for this amendment grows out of the fact that there has been apparently a deliberate attempt on the part of [717] the executive officers of the Government to thwart and defeat the positive direction of the legislative department. The Secretary of the Interior, while he recommended the passage of this law and approved it in the first instance, after it had been enacted, appointed commissioners, and then, in the instructions which were given to those commissioners, as shown by the report made on yesterday morning by the present Secretary of the Interior, proceeded, by his instructions, virtually to tell the commissioners not to do that which the law said in mandatory terms they should do.

* * * *

On the 16th day of January, 1896, there was passed through the House of Representatives a demand upon the Interior Department for information as to why the law had not been executed. The answer of the Secretary of the Interior is shown in Document No. 191, House of Representatives, Fifty-fourth Congress, first session. The answer was so completely unsatisfactory that at a later time, in March, 1896, by resolution of this body, the Secretary of the Interior was requested to inform the Senate for what reason the nonagricultural and unallotted lands of the Uncompahgre Indian Reservation had not

been restored to the public domain and proclaimed open to entry and location, as prescribed by sections 20 and 21 of the act of Congress approved August 15, 1894. The answer of the Secretary, under date of March 10, 1896, was designated at the time as not being a reply, but an evasion. Every effort was made to get a frank and candid expression from the Interior Department. Personal visits were paid, official communications were sent, but absolutely no information was reported to the Congress of the United States sufficient in any degree to answer the request of Congress.

* * * *

In 1880 we purchased from the Ute Indians in Colorado their reservation and agreed to pay a certain price for it, the money to [718] be deposited in the Treasury of the United States and expended for their benefit. In 1883 we moved those Indians over to Utah. The agreement was that we should move them to some point in Utah where there were agricultural lands which they could cultivate. We put them upon the country where they now reside. The President issued a proclamation setting apart 2,000,000 acres of land pending the selection of their allotments.

* * * *

So we waste the money of the Government and the money of the Indians, when in reality—and I shall move such an amendment in the appropriation bill—we ought to have no allotting agents whatever. When these lands are properly surveyed, the agent can allot the Indians under his charge, and there is no necessity for allotting agents and commissions to go out and locate the Indians. The American settler goes upon the frontier and takes his land. The Indian agent can designate the allotment for the Indians, if the land is properly surveyed and marked, and every bit of this work can thus be done. There is no trouble [719] about it at all. I can designate a man who can go and allot every Indian, if there is land

for him to take for farming purposes, and do it between now and the 1st day of July, and get the best land there is upon the entire reservation; and there will be no question about it. If the Indians had taken this land, if it had been fit for the purpose, and if they had been willing to have $1.25 of their money diverted to pay for each acre, the allotment of this land would have been made long ago. There is no injustice to the Indians in this matter. Full and complete justice can be done to them and will be done to them.

* * * *

[720] * * * The facts are, as I happen to know by examination of this question over and over again, that the Indians want to live with the Uintahs. They are allied to them by blood. They belong to the same great generic family; they are all Utes. They do not want to live on the Uncompahgre Reservation of which we are now talking. There are only 10,000 acres of it, and they are separated from their people. They want to go back amongst the Uintahs. A great number of them are there now. There is no necessity for any Government order to remove them. They roam over that whole country at will. As the Senator from South Dakota [Mr. PETTIGREW] said, ample time is given by the amendment to the Government of the United States to make such rules and adopt such a line of conduct in the interests of humanity as may be necessary; and that is the whole of it.

* * * *

[725] INDIAN APPROPRIATION BILL.

Mr. PETTIGREW. I move that the Senate proceed to the consideration of the Indian appropriation bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H.R. 15) making appropriations for the current and contingent expenses of the Indian Department and for

fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June 30, 1898, and for other purposes, the pending question being on the amendment reported by the Committee on Appropriations, to insert on page 66, after line 25:

> That the mineral lands of the Uncompahgre Indian Reservation in the State of Utah are hereby declared open to public entry under the mineral-land laws of the United States, and no one person shall be allowed to make more than one claim on lands containing gilsonite. And on and after January 1, 1898, all of said reservation unallotted to Indians shall be open to public entry under the land laws of the United States.

* * * *

CONGRESSIONAL RECORD—HOUSE
APRIL 22

[814] The next amendment of the Senate was read, as follows:

> On page 68, after line 13, insert the following:
>
> "That the mineral lands of the Uncompahgre Indian Reservation in the State of Utah are hereby declared open to public entry under the mineral land laws of the United States, and no one person shall be allowed to make more than one claim on lands containing gilsonite. And on and after January 1, 1898, all of said reservation unallotted to Indians shall be open to public entry under the land laws of the United States."

Mr. SHERMAN. I move that the committee recommend nonconcurrence to this amendment.

* * * *

Mr. RICHARDSON. Then the only difference between the item in that bill and the present provision is that the

number of claims which may be taken by one individual is now reduced to one.

Mr. SHERMAN. I think so. I have not compared the two provisions word for word; but I think that is the only difference.

Mr. LACEY. Mr. Chairman, the original act in regard to the Uncompahgre Reservation was passed in August, 1894; and it provided that a single person might take two claims of gilsonite land, neither claim, however, exceeding 10 acres. That law is in force now, and the Secretary of the Interior may at any time open up the Uncompahgre Reservation to settlement and to the location of claims under the mineral-land law, including deposits of gilsonite, elaterite, and similar substances, provided the number of claims taken by any one person be limited to two.

The Indian bill which passed in the last Congress, and which was not approved by the President, increased the number so as to allow four claims to be taken. The proposition which now comes to us from the Senate reduces the number of claims to one for each person, but leaves some doubt as to the size of the claim. It provides that each individual may take one claim under the general mineral-land law, but whether the provision of the act of 1894 limiting the size of each claim to 10 acres would apply in this case is a matter in considerable doubt.

I wish to call the attention of the Committee of the Whole to reports made by two Secretaries of the Interior—one in 1895 by Secretary Smith, and the other in 1896 by Secretary Francis. I believe we ought not to concur in this amendment. I call attention to page 38 of the report of the Secretary of the Interior in 1895; and with the consent of the committee, I should like to print a part of that report in my remarks, as this question is almost certain to come before the House again upon the conference report, and this information in the RECORD may be found convenient to the House for reference.

Mr. SAYERS. I hope the Committee of the Whole will give permission for printing those reports.

Mr. LACEY. I ask unanimous consent that I may be permitted to print that part of the report of 1895 referring to this matter, and also extracts from the report made in 1896.

The CHAIRMAN. The gentleman from Iowa [Mr. LACEY] asks leave to print in the RECORD certain portions of two reports. Is there objection?

There was no objection.

The following are the parts referred to:

* * * *

[817] * * * In view of what the gentleman has said respecting the title of the Indians to the Uncompahgre Reservation, and the character of their occupancy, perhaps it may not be inopportune to advert briefly to the history of Congressional legislation upon this question and executive proceedings in regard to the opening of this reservation.

I wish to say, to remind the members of the committee, that this is not the first time this question has been under consideration by the legislative branch of the Government. In 1894 a law was passed by Congress, mandatory in its terms, which provided for the opening of the Uncompahgre Reservation in the State of Utah. That law provided for the appointment of a commission consisting of three persons to allot in severalty whatever agricultural lands might be on the reservation and needed for allotment in severalty to the Uncompahgre Indians.

A further provision in that enactment was that the President of the United States, by appropriate proclamation, should open the mineral and agricultural lands to settlement under the mineral and land laws of the United States; but, strange to say, the President of the United States, in the face of this mandatory statute and notwithstanding the fact that the then Secretary of the Interior provided the necessary proclamation for opening the reservation, refused to sign the same, and because the President of the United States refused to perform his duty

and carry into effect the enactments of Congress, supplemental legislation has been deemed necessary.

In the previous discussion it was remarked, as I am told, by the gentleman from Missouri [Mr. BARTHOLDT], in regard to this law of 1894, that the Secretary of the Interior, and perhaps some others who were connected with the enforcement of the provisions of that legislation, ought to have been impeached for a violation of a duty which the statute plainly enjoined upon them. Now, Mr. Chairman, the report of the commission appointed by the President pursuant to authority given in the act just referred to, for the purpose of segregating lands from the reservation for the Indians, discloses the fact that the Uncompahgre Indians do not desire to take allotments upon this reservation under the terms of that act, and in fact from the reports which have been submitted by the Department of the Interior and the Indian Bureau it appears that they have no desire to take allotments upon the Uncompahgre Reservation under any conditions.

* * * *

[818] Mr. KING. Mr. Chairman, as I was about to remark, the reports which have been made (and they have been numerous) indicate conclusively that the Uncompahgre Reservation is practically valueless as a permanent abiding place for the Indians constituting this tribe. They have refused to live there, and by some amicable arrangement which has been entered into by the representatives of the two tribes, a number of the Uncompahgres have received allotments on the Uintah Reservation, where homes have been built for them, and they are now upon the high road to civilization and prosperity. There are only about 10,000 acres of land upon the Uncompahgre Reservation that can be made to produce agricultural crops. This has been clearly marked out, and could easily and without delay be allotted if desired, or by natural objects could be designated and segregated from the residue and given to the Indians.

It seems to me, gentlemen, that there can be no objection to opening this reservation on the ground that it is required as an abiding place for the Indians. As I have observed, the reports indicate conclusively that it is not fitted as an abiding place. The climatic as well as the physical conditions render it inhospitable and forbidding. The geological reports indicate that most of the land is so broken and sterile as to be incapable of cultivation. And the commissioners have stated that it is an arid waste in summer and a frigid zone in winter. The commissioners sent out under the act of 1894 reported that by reason of the frigidity of the climate and the aridity and sterility of the soil there was but a small portion of the reservation susceptible of reclamation and irrigation, so that the Indians do not desire this as an abiding place. It would be inhuman to permanently or even tentatively locate this entire tribe on this mountainous desert. During past discussions of this measure some gentlemen have raised their voices in defense of the Indians.

I join with them in advocating a policy that will protect the Indians and preserve them and their possessions from dishonest persons. In fact, Mr. Chairman and gentlemen, it is notorious that the people of Utah in all their vicissitudes have manifested for the red man a kindness and affection which have obviated difficulties and brought the two races into harmonious relations. Speaking as a Representative of Utah, I say we are as solicitous for the welfare of the red man as any of our Eastern brethren; and when we desire the opening of the Uncompahgre Reservation, it is not because we are opposed to the interests of the red man or to giving him a permanent abiding place.

The Uintah Reservation is a magnificent valley. It possesses large areas of desirable land, upon which there is ample room for the Uintah tribe and for the Uncompahgre Indians. There are less than 1,000—to be accurate, 926—members of the Uintah tribe to-day, including adults and children. So that it is apparent that, according to the terms of the treaty of 1880, but a very limited

amount of land would be required for them; and it is stated in the various reports submitted upon this question that the Uintah tribe desire the commingling of the Uncompahgres with them, desire that the Uncompahgres shall take lands upon their reservation and become more closely identified in their mutual efforts to advance their interests and attain a higher civilization.

So it would seem there can be no objection to the opening of the Uncompahgre Reservation upon the ground that the Indians require the land. I come now to the objection urged by the gentleman from Iowa [Mr. LACEY]. It seems to me, Mr. Chairman, there is a misapprehension on the part of some gentlemen living upon the broad, fertile prairies and the magnificent hills and paradisic valleys of the East as to the character of the land that we have in the West. They seem to think that we must have an Elysian land that "blossoms as the rose" and yields the wealth of Indus without the labor of man.

If it does blossom as the rose, it is because of the herculean efforts, the heroism, the almost unendurable hardships and trials that have been undergone by those hardy men and women who have settled upon those deserts and sterile wastes, and who planted the standard of civilization in those mountain fastnesses. And I think our brethren of the East ought not to interpose any objection to a policy that will redound to the general good and advantage of our common country.

* * * *

[833] The CHAIRMAN. The time for debate has expired. The question is on the motion of the gentleman from Texas [Mr. BAILEY] to concur with an amendment, which has been read.

The question was taken; and on a division (demanded by Mr. BAILEY) there were—ayes 40, noes 72.

Accordingly, the motion of Mr. BAILEY was rejected.

The CHAIRMAN. The question now is on the motion to concur.

The question being taken, it was decided in the negative.

The CHAIRMAN. The question now is on the motion to nonconcur, and the gentleman from Iowa [Mr. LACEY] offers the following instructions.

The Clerk read as follows:

> The Committee of the Whole recommend that the conference committee be instructed to insist upon a provision for leasing the gilsonite mineral lands, with such limitations and restrictions as will prevent the control of the said mineral by trusts or combinations of any kind; such leases to be for limited amounts and for limited periods upon a royalty to the Government.

The CHAIRMAN. The Chair will state that the committee having determined in the negative on the motion to concur, that is equivalent to a vote to nonconcur or a recommendation to nonconcur, and the question now is on the proposition of the gentleman from Iowa [Mr. LACEY], which has just been read.

* * * *

CONGRESSIONAL RECORD—HOUSE.
APRIL 23

[840] Mr. SHERMAN. Mr. Speaker, I move that a committee of conference be appointed on the disagreeing votes of the two Houses.

Mr. LACEY. Mr. Speaker, there was an instruction reported back to the House.

The SPEAKER. That question should come up after the committee is appointed. The gentleman from New York [Mr. SHERMAN] moves that a committee of conference be appointed on the disagreeing votes of the two Houses.

The motion was agreed to.

Mr. LACEY. I ask the Clerk to report the proposed instructions.

The Clerk read as follows:

> That the conference committee be instructed to insist upon a provision for leasing the gilsonite mineral lands, with such limitations and restrictions as will prevent the control of the said mineral by trusts or combinations of any kind; such leases to be for limited amounts and for limited periods, upon a royalty to the Government.

The SPEAKER. The Chair desires to say with regard to this question of instructing the conference committee that it is, perhaps, a question whether the committee have a right to make such a recommendation as that, but it can be made by the indorsement of the individual member.

Mr. KING. I desire to make the point of order that that instruction by the committee was not proper; that they had no authority to instruct the House.

The SPEAKER. The gentleman from Iowa [Mr. LACEY] can move it as an individual member.

Mr. LACEY. Then I move this instruction at this time.

The SPEAKER. The gentleman from Iowa moves the following instruction, which will be reported to the House.

The motion of Mr. LACEY, as above set forth, was again read.

Mr. LACEY. I move to strike out the word "amounts," and to insert in lieu thereof the word "areas." I think that is perhaps the better word.

Mr. BARTHOLDT. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BARTHOLDT. Is it in order to make such a change in the resolution reported by the Committee of the Whole if unanimous consent is not obtained for that purpose? I think it requires unanimous consent.

The SPEAKER. Upon what ground? It is a proposition to instruct the committee of conference. It is not usual to instruct the committee at the first conference, it is true, but the House has undoubtedly the right so to do.

Mr. LACEY. I move the previous question on this resolution.

The SPEAKER. The gentleman from Iowa asks for the previous question.

The question was taken on ordering the previous question; and the Speaker announced that the ayes seemed to have it.

Mr. KING. Division, Mr. Speaker!

The House divided; and there were—ayes 70, noes 5.

* * * *

CONGRESSIONAL RECORD—HOUSE
MAY 13

[1070] INDIAN APPROPRIATION BILL

Mr. SHERMAN. Mr. Speaker, I desire to present a conference report on the Indian appropriation bill.

Mr. SAYERS. Mr. Speaker——

The SPEAKER. Does the gentleman from New York yield to the gentleman from Texas?

Mr. SHERMAN. Yes, sir.

Mr. SAYERS. Just a moment. Mr. Speaker, I shall not object to the consideration of the conference report, provided that the gentleman from New York will let the matter which refers to the gilsonite deposits lay over until next Monday.

Mr. SHERMAN. The matter with reference to the gilsonsite claim is not included in this report.

Mr. SAYERS. I understand so; but I would like to have an agreement with the gentleman that when we shall have considered the report, the other matter, which has reference to the gilsonite deposits, shall lay over until Monday.

Mr. SHERMAN. Mr. Speaker, this was my desire in the matter: That after we had disposed of this conference report, to then move to concur in the Senate amendment relating to the gilsonite deposits with an amendment, which amendment is one that has been substantially agreed upon by the conferees, and provides for the opening up

of these lands under leases, with the payment of a royalty, which is substantially what the House indicated the other day as being the line on which they desired the matter disposed of. I wished to make that motion as soon as this report was disposed of; but I shall not press it if the gentleman from Texas desires to have it stand over until next Monday.

Mr. SAYERS. Yes; I would like the amendment upon which the conferees have agreed printed in the RECORD for the information of the House, and let it stand over until next Monday.

Mr. SHERMAN. I ask unanimous consent, Mr. Speaker, to print in the RECORD the amendment which I should have proposed. and which I will propose on next Monday.

The SPEAKER. That is the understanding. If there be no objection, the agreement will be indorsed by the House. [After a pause.] The Chair hears none.

The proposition is as follows:

Provided, That the title of all lands containing gilsonite shall remain in the United States, and any citizen of the United States may make an entry of a tract of land containing gilsonite of the area of one mining claim for the purpose of mining gilsonite; and such entryman, his heirs or assigns, shall be allowed to retain possession of said claim and take gilsonite therefrom upon paying to the United States an amount to be fixed by the Secretary of the Interior, not exceeding 75 cents for every ton of gilsonite mined or taken from said claim. If at any time the claimant or occupant of any gilsonite mine entered under the provisions of this act shall enter into any combination with any other person or persons to limit the production of gilsonite or increase the price of the same, the Secretary of the Interior is hereby directed to take possession of said mine, and all the rights of the claimant, his heirs or assigns, therein shall be forfeited, and the Secretary of the Interior shall take possession of the same. The Secretary of

the Interior is hereby authorized and directed to make all necessary rules and regulations to carry this section into effect.

* * * *

CONGRESSIONAL RECORD—HOUSE
MAY 17

[1110] INDIAN APPROPRIATION BILL

Mr. SHERMAN. I send to the desk a conference report on the remaining disagreement of the two Houses upon the amendments of the Senate to the Indian appropriation bill.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate numbered 10 to the bill (H.R. 15) making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June 30, 1898, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:

"That the mineral lands of the Uncompahgre Indian Reservation, in the State of Utah, are hereby declared open to public entry under the mineral-land laws of the United States: *Provided*, That the title of all lands containing gilsonite shall remain in the United States, and any citizen of the United States may make an entry of a tract of land containing gilsonite of the area of one mining claim for the

purpose of mining gilsonite; and such entryman, his heirs or assigns, shall be allowed to retain possession of said claim and take gilsonite therefrom upon paying to the United States an amount, to be fixed by the Secretary of the Interior, not exceeding 75 cents for every ton of gilsonite mined or taken from said claim. If at any time the claimant or occupant of any gilsonite mine entered under the provisions of this act shall enter into any combinaiton with any other person or persons to limit the production of gilsonite or increase the price of the same, the Secretary of the Interior is hereby directed to take possession of said mine, and all the rights of the claimant, his heirs or assigns, therein shall be forfeited, and the Secretary of the Interior shall take possession of the same. The Secretary of the Interior is hereby authorized and directed to make all necessary rules and regulations to carry this provision into effect."

And the Senate agree to the same.

JAMES S. SHERMAN,
CHARLES CURTIS,
Managers on the part of the House.

R. F. PETTIGREW,
F. M. COCKRELL,
Managers on the part of the Senate.

The following statement of the House conferees was read:

Statement to accompany conference report No. 2 on the Indian appropriation bill.

This conference report disposes of the only remaining amendment, to wit, amendment No. 10, which has reference to the gilsonite deposits in the Uncompahgre Reservation in Utah. The agreement is in accord with the apparent sentiment of the House when the matter was discussed there. It provides for

the title of the lands remaining in the United States and the gilsonite being mined under regulations prescribed by the Secretary of the Interior, and the United States is to receive a royalty of 75 cents per ton.

This report finally disposes of the Indian appropriation bill.

Mr. SHERMAN. Mr. Speaker, the report just read summarizes what this amendment does. It provides that the United States shall retain title of these lands on which gilsonite deposits are found, and leases may be granted under which the gilsonite may be mined pursuant to regulations which the Secretary of the Interior shall prescribe, royalty being paid to the United States at the rate of 75 cents per ton. This, Mr. Speaker, is, we believe, in substantial accord with the apparent sentiment of the House when this matter was under discussion on, I think, the 20th of April last, and when it was proposed to offer instructions to the conference committee.

* * * *

[1120] The previous question was ordered.

The question being taken on the motion to agree to the conference report, on a division (demanded by Mr. LACEY) there were—ayes 36, noes 73.

Accordingly the conference report was rejected.

Mr. SHERMAN. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. SHERMAN. To make a motion in reference to this conference. I desire to move that the House further insist upon its disagreement to the Senate amendment, and ask for a further conference.

The SPEAKER. The gentleman from New York moves that the House still further insist on its disagreement and ask for a further conference.

Mr. KING. Mr. Speaker, I desire to offer a substitute, if I am recognized by the Speaker.

The SPEAKER. The question must be taken first upon agreeing to the conference.

The question being taken, the motion was agreed to.

Mr. KING. Mr. Speaker——

Mr. LACEY. I move that the conferees be instructed to endeavor to secure an agreement substantially in the form of the proposition which was read in my time a while ago, and which I now renew and ask the Clerk to read.

The SPEAKER. The gentleman from Iowa [Mr. LACEY] moves that the conferees be instructed to endeavor to secure an agreement substantially in the form of the proposition which the Clerk will report.

The Clerk read as follows:

> *Provided*, That the title of all lands containing gilsonite shall remain in the United States, and any citizen of the United States may make an entry of a tract of land containing gilsonite of the area of one mining claim of 10 acres for the purpose of mining gilsonite; and such entryman, his heirs or assigns, shall be allowed to retain possession of said claim and take gilsonite therefrom upon paying to the United States an amount to be fixed by the Secretary of the Interior for every ton of gilsonite mined or taken from said claim. If at any time the claimant or occupant of any gilsonite mine entered under the provisions of this act shall enter into any combination with any other person or persons to limit the production of gilsonite or increase the price of the same, the Secretary of the Interior is hereby directed to take possession of said mine, and all the rights of the claimant, his heirs or assigns, therein shall be forfeited, and the Secretary of the Interior shall take possession of the same. The Secretary of the Interior is hereby authorized and directed to make all necessary rules and regulations to carry this section into effect. It is the intention hereby to prevent the acquisition of such claim for the purpose of in any manner

withdrawing the same from use, and the failure to operate any claim for a term of five years shall work a forfeiture of such claim; and no person, partnership, association, or corporation shall acquire and hold by assignment, or in any other way, more than ten of such claims; and a violation hereof shall work a forfeiture of the claim so assigned or attempted to be acquired, and power to declare such forfeiture is hereby given to the Secretary of the Interior.

This section shall also apply to elaterite, asphalt, or other like substance: *Provided further,* That the Secretary of the Interior, in making rules and regulations to carry out the purposes of this act, is authorized and directed to make such limitations and conditions in the terms of the entries as will carry out the purposes of this act, and for that purpose shall limit the time of such entries to terms of not exceeding twenty years.

* * * *

The SPEAKER. The gentleman asks for the previous question.

The question being taken on ordering the previous question, on a division (demanded by Mr. KING) there were—ayes 64, noes 66.

Mr. LACEY. Tellers, Mr. Speaker.

Tellers were ordered; and the Speaker appointed Mr. LACEY and Mr. KING.

The House again divided; and the tellers reported—ayes 70, noes 65.

* * * *

CONGRESSIONAL RECORD—SENATE
MAY 18

[1130] INDIAN APPROPRIATION BILL

Mr. PETTIGREW submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate numbered 10 to the bill (H.R. 15) making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June 30, 1898, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:

"The Secretary of the Interior is hereby directed to at once allot agricultural lands in severalty to the Uncompahgre Ute Indians now located upon or belonging to the Uncompahgre Indian Reservation in the State of Utah, said allotments to be upon the Uncompahgre and Uintah reservations or elsewhere in said State. And all the lands of said Uncompahgre Reservation not therefore allotted in severalty to said Uncompahgre Utes shall, on and after the 1st day of April, 1898, be open for location and entry under all the land laws of the United States."

And the Senate agree to the same.

R. F. PETTIGREW,
F. M. COCKRELL,
Managers on the part of the Senate.

J. S. SHERMAN,
CHARLES CURTIS,
Managers on the part of the House.

Mr. PETTIGREW. I ask that the conference report be agreed to.

The report was concurred in.

* * * *

[1209] Mr. SHERMAN. Just one word, Mr. Speaker. I will not detain the House long. The gentleman from Wisconsin [Mr. COOPER] says that I said this report was better than the last. I did so state, Mr. Speaker, that it was better for the Indians. He quotes the report of Major Randlett, in which he says that the original proposition, as passed by the Senate, was an outrage upon these Indians. I thought so, Mr. Speaker, and that is why I opposed it just as strenunously as I could, all the way through. It was an outrage upon the Indians. This report is not. This provision takes ample care of all the rights of the Indians before it disposes of a foot of this land, and that is what we want; that is what we of the Indian conference committee of this House have been contending for all the way through.

By this amendment the rights of the Indians are cared for. Every single Indian is given his allotment in severalty before the balance of this land is opened up under the general land law of the United States. Now, my friend from Alabama [Mr. UNDERWOOD] says that this proposition that is now here is not so good as the one that came in the other day. Perhaps my friend is right about that; but let me call his attention to the fact that the proposition which came in the other day was rejected by this House by a majority of more than two to one, and that thereafter, when the gentleman from Iowa [Mr. LACEY] offered a proposition as an instruction, which I believed was better even than what we succeeded in getting in the conference committee—when he offered his instruction to the conferees, the House rejected that.

Mr. Speaker, the conferees have done their best to carry out the wishes of the House and have brought back here a proposition which we thought was in accord with their wishes, and have seen it stricken down by a vote of two to one. We have seen on two different occasions the House refuse us instructions as to what we should do; and we have done the very best we could and have finally come here with a proposition which opens these

lands under all the land laws of the United States; and for the life of me I see no reason why this particular body of land in the State of Utah should be opened up differently from what all the other lands of the United States have been opened up in the last twenty-five years. I think the proposition is a fair one, Mr. Speaker, and I hope the House will adopt it; and I ask for a vote.

The SPEAKER. The question is on agreeing to the conference report.

The question was taken; and the Speaker announced that the noes seemed to have it.

Mr. SHERMAN. Division, Mr. Speaker.

The House divided; and there were—ayes 56, noes 64.

So the conference report was disagreed to.

Mr. SHERMAN. Mr. Speaker, I move that the House concur in the Senate amendment; and I desire to say in making that motion that I do not make it in the hope that the House will pass it in just that form, but I do it in the hope that the proposition will be so amended that something will be agreed upon, so that the Senate will recede and accept the desires of the House.

Mr. CANNON. May I ask the gentleman a question?

Mr. SHERMAN. Certainly.

Mr. CANNON. I desire to know if the conferees of the House believe that the Senate would accept an amendment ceding these lands to the State of Utah?

Mr. SHERMAN. I will say this, Mr. Speaker, that the chairman of the conference committee on the part of the Senate said to us the other day that if this report was returned, that whatever came back to the Senate as the will of the House he should move that the Senate accede to it, and then, if that motion failed, he would then move that the Senate recede from the entire proposition.

Mr. LACEY. Now, Mr. Speaker, I move to substitute for the motion of the gentleman from New York the following.

The SPEAKER. The gentleman from New York moves to recede from the disagreement and concur in the Senate amendment, and the gentleman from Iowa moves to concur with the following amendment, which the Clerk will read.

The Clerk read as follows:

> Concur in Senate amendment numbered 10 by striking out the same and substitute the following in lieu thereof:
>
> "The Secretary of the Interior is hereby directed to allot agricultural lands in severalty to the Uncompahgre Ute Indians now located or belonging to the Uncompahgre Indian Reservation in the State of Utah, said allotments to be upon the Uncompahgre and Uintah reservations or elsewhere in said State. And all the lands of said Uncompahgre Reservation not theretofore allotted in severalty to said Uncompahgre Utes shall, on and after the 1st of April, 1898, be open for location and entry under all the land laws of the United States; excepting, however, therefrom all lands containing gilsonite, asphalt, elaterite, or other like substances.
>
> "And the title to all of the said lands containing gilsonite, asphaltum, elaterite, or other like substances is reserved to the United States.
>
> "And the Secretary of the Interior is authorized to lease the said reserved lands containing said minerals; said leases to be upon such royalty as the said Secretary may determine to be reasonable, and said leases to be for such periods, not exceeding ten years, as he may determine; and regulations and limitations shall be provided by the Secretary as to the amount of lands embraced in each lease, or as to assignments of said leases, so as to prevent any monopoly of said minerals; and the Secretary will make all such rules and regulations as may be necessary for the purpose of carrying out the objects of this act."

The SPEAKER. The question is on agreeing to the amendment proposed by the gentleman from Iowa.

* * * *

CONGRESSIONAL RECORD—HOUSE
MAY 20

[1210] The SPEAKER. This is not an amendment to the conference report, It is a proposition that the House recede from its non-concurrence and concur with an amendment, and the question is on the amendment.

The question being taken, on a division (demanded by Mr. KING and Mr. HARTMAN) there were—ayes 74, noes 42.

* * * *

CONGRESSIONAL RECORD—SENATE

[1253] INDIAN APPROPRIATION BILL

The VICE-PRESIDENT. The Chair hears no objection to taking up the conference report on the Indian appropriation bill. The report has been read.

Mr. PETTIGREW. The report has been read. I ask the Senate to concur in the conference report.

The VICE-PRESIDENT. The question is on concurring in the report.

Mr. CANNON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Utah desire to speak on the pending question?

Mr. CANNON. I do, briefly.

The VICE-PRESIDENT. The Senator from Utah will proceed.

Mr. CANNON. Mr. President, it would be an injustice to the courtesy of the Senate if we were to object to the adoption of the conference report. At the same time it would be unfair if a statement were not made at this time of the injustice which is wrought to the people living in the State of Utah and all the people of the country so

long as the status shall be maintained which will exist upon the adoption of the conference report.

The most valuable minerals of the Uncompahgre Indian Reservation will be withheld from public use during the whole time of the existence of the law which will be created by the passage of this bill and its signature by the President. It is a wrong to all the people of the United States, because the development of asphaltum and gilsonite and elaterite lands in various States of the Union has resulted in a great reduction in the price of paving in this country and a further development will still further reduce that cost to the cities of the United States.

It is only with a desire to bring to the attention of the Senate the fact that the status to be created by this bill should be remedied by further legislation at the earliest possible time that I rise at the present moment. I shall vote for the adoption of the conference report because the Senate has given to us the utmost consideration, and the conferees of both Houses have dealt with this question in an understanding way, and have made various futile efforts to get the two Houses to agree upon a proposition that should be just to all.

The VICE-PRESIDENT. The question is on concurring in the conference report.

The report was concurred in.

* * * *

CONGRESSIONAL RECORD—HOUSE
JUNE 3

[1468] Mr. SHERMAN. I think this conference report will take but a moment. We have given way twice for other matters, anyhow.

The SPEAKER. The Chair will recognize the gentleman from Texas [Mr. STEPHENS] as soon as this matter is disposed of. The Clerk will read the conference report and then the statement of the House conferees.

* * * *

Mr. SHERMAN. Mr. Speaker, this report leaves the gilsonite and asphaltum deposits still undisposed of. The title of all lands containing any of these deposits, about which we have had so much discussion heretofore, is retained in the United States, and the matter is left for future action by Congress.

Mr. SAYERS. There is, then, no legislation whatever in this bill respecting those lands?

Mr. SHERMAN. None whatever, so far as these deposits are concerned. I move the adoption of the report.

Mr. SHAFROTH. I will state to the gentleman from Texas [Mr. SAYERS] that there is legislation in this concerning these lands, but it withdraws from entry entirely, and reserves the title in the United States. I am opposed to it, but nevertheless I do not see that we can make anything by fighting it further at this time.

Mr. SHERMAN. I ask for a vote, Mr. Speaker.

The SPEAKER. The question is on agreeing to the conference report.

The conference report was agreed to.

On motion of Mr. SHERMAN, a motion to reconsider the last vote was laid on the table.

* * * *

Act of June 7, 1897, 30 Stat. (LD 49)

[87] The Secretary of the Interior is hereby directed to allot agricultural lands in severalty to the Uncompahgre Ute Indians now located upon or belonging to the Uncompahgre Indian Reservation in the State of Utah, said allotments to be upon the Uncompahgre and Uintah reservations or elsewhere in said State. And all the lands of said Uncompahgre Reservation not theretofore allotted in severalty to said Uncompahgre Utes shall, on and after the first day of April, eighteen hundred and ninety-eight, be open for location and entry under all the land laws of the United States; excepting, however, therefrom all lands containing gilsonite, asphalt, elaterite, or other like substances.

And the title to all of the said lands containing gilsonite, asphaltum, elaterite, or other like substances is reserved to the United States.

* * * *

Excerpts from 35 Cong. Rec. (1902) (LD 70)

CONGRESSIONAL RECORD—SENATE
APRIL 4

[3650] The amendment was agreed to.

The next amendment was, on page 50, after line 22, to insert:

> That the Secretary of the Interior, with the consent thereto of the majority of the adult male Indians of the Uintah and the White River tribes of Ute Indians, to be ascertained as soon as practicable by an inspector, shall cause to be allotted to each head of a family 80 acres of agricultural land which can be irrigated and 40 acres of such land to each other member of said tribes, said allotments to be made prior to October 1, 1903, on which date all the unallotted lands within said reservation shall be restored to the public domain: *Provided,* That persons entering any of said land under the homestead law shall pay therefor at the rate of $1.25 per acre: *And provided further,* That nothing herein contained shall impair the rights of any mineral lease which has been approved by the Secretary of the Interior, or any permit heretofore issued by direction of the Secretary of the Interior to negotiate with said Indians for a mineral lease; but any person or company having so obtained such approved mineral lease or a permit to negotiate with said Indians for a mineral lease on said reservation, pending such time and up to thirty days before said lands are restored to the public domain as aforesaid, shall have the preferential right to locate under the mining laws not to exceed 640 acres of contiguous mineral land, except the Raven Mining Company, which may locate 100 mining claims of the character of mineral mentioned in its lease; and the proceeds of the sale of the lands so restored to the public domain shall be applied,

first, to the reimbursement of the United States for any [3651] moneys advanced to said Indians to carry into effect the foregoing provisions, and the remainder, under the direction of the Secretary of the Interior, shall be used for the benefit of said Indians. And the sum of $70,064.48 is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, to be paid to the Uintah and the White River tribes of Ute Indians, under the direction of the Secretary of the Interior.

Mr. STEWART. In line 16, page 51, after the word "or" I move to strike out the article "a" and insert "such."

The SECRETARY. On page 51, line 16, it is proposed to strike out the article "a" where it occurs before the word "permit" and insert in lieu thereof the word "such."

The amendment to the amendment was agreed to.

Mr. STEWART. After the word "interior" in the tenth line, page 52, I move to insert "to be immediately available."

Mr. PLATT of Connecticut. Ought there not also to be a clause like this: "in fulfillment of treaty obligations;" for that is what the money is paid for as I understand? I do not care anything about it. It can be fixed in conference. But I understand it is to pay the Indians what they claim we have not paid them under our treaty obligations.

Mr. STEWART. I do not think those words need be in there. Although the Indians did not consent to the treaty, the Government took the land and allotted it. The treaty was not ratified. It was a treaty on one side, but the Government availed itself of it. It amounts to a treaty obligation as we have considered it.

Mr. PLATT of Connecticut. I do not ask to have it go in.

Mr. ALLISON. Before this amendment is finally disposed of I hope the Senator from Nevada will give some explanation as respects the details. On its face it looks like a very important amendment, although it may not be.

Mr. CLAPP. I desire to call the chairman's attention to the fact that the agent who has gone out to negotiate the treaty told me it was quite important that the bill should separate the two items—$10,000 under the agreement of May 24, 1888, and $60,064.48 under the treaty of January 8, 1898. I have not been able to see the chairman since.

Mr. STEWART. Has the Senator prepared an amendment making that separation?

Mr. CLAPP. I have not one prepared. I can prepare one.

Mr. QUARLES. This is a very important matter, and I ask that the amendment be temporarily passed over.

Mr. CLAPP. That will do.

Mr. STEWART. I think that is the best way.

The PRESIDING OFFICER (Mr. LODGE in the chair). The amendment will be passed over temporarily.

Mr. RAWLINS subsequently said: I ask that we may be permitted to return to the amendment just passed over. I would suggest an amendment which I think would be satisfactory, and we may then dispose of the matter.

The PRESIDING OFFICER. The Chair understood the amendment had been passed over until the conclusion of the reading of the bill; but, of course——

Mr. STEWART. It has been passed by temporarily and will be called up again. Some of the Senators who wanted to hear an explanation of the amendment have left the Chamber. So we had better not act on it now.

Mr. RAWLINS. Very well.

* * * *

[3711] The PRESIDENT pro tempore. The next amendment which was passed over will be stated.

The SECRETARY. On page 50, after line 22, the committee propose to insert:

That the Secretary of the Interior, with the consent thereto of the majority of the adult male Indians of the Uintah and the White River tribes of Ute In-

dians, to be ascertained as soon as practicable by an inspector, shall cause to be allotted to each head of a family 80 acres of agricultural land which can be irrigated and 40 acres of such land to each other member of said tribes, said allotments to be made prior to October 1, 1903, on which date all the unallotted lands within said reservation shall be restored to the public domain: *Provided*, That persons entering any of said land under the homestead law shall pay therefor at the rate of $1.25 per acre: *And provided further*, That nothing herein contained shall impair the rights of any mineral lease which has been approved by the Secretary of the Interior, or any permit heretofore issued by direction of the Secretary of the Interior, to negotiate with said Indians for a mineral lease; but any person or company having so obtained such approved mineral lease or such permit to negotiate with said Indians for a mineral lease on said reservation, pending such time and up to thirty days before said lands are restored to the public domain as aforesaid, shall have the preferential right to locate under the mining laws not to exceed 640 acres of contiguous mineral land, except the Raven Mining Company, which may locate 100 mining claims of the character of mineral mentioned in its lease; and the proceeds of the sale of the lands so restored to the public domain shall be applied, first, to the reimbursement of the United States for any moneys advanced to said Indians to carry into effect the foregoing provisions, and the remainder, under the direction of the Secretary of the Interior, shall be used for the benefit of said Indians. And the sum of $70,064.48 is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, to be paid to the Uintah and the White River tribes of Ute Indians, under the

direction of the Secretary of the Interior, to be immediately available.

Mr. STEWART. The Senator from Utah [Mr. RAWLINS] has an amendment to that amendment, which he desires to offer in pursuance of suggestions made here.

Mr. RAWLINS. I offer the amendment which I send to the Secretary's desk, to come in after line 10 of the amendment of the committee, on page 52.

The PRESIDENT pro tempore. The amendment of the Senator from Utah [Mr. RAWLINS] to the amendment of the committee will be stated.

The SECRETARY. At the end of the committee amendment on page 52, line 10, it is proposed to insert:

> Said item of $7,064.48 to be paid to the Uintah and White River Utes to cover claims which these Indians have made on account of the allotment of lands on the Uintah Reservation to Uncompahgre Indians and for which the Government has received from said Uncompahgre Indians money aggregating $60,064.48, and the remaining $10,000 claimed by the Indians under an act of Congress detaching a small part of the reservation on the east and under which act the proceeds of the sale of the lands were to be applied for the benefit of the Indians. This amount to be advanced as a compromise in settlement of these claims and to remove all objection of the Indians to taking allotments and the opening of said reservation.

The PRESIDENT pro tempore. The question is on the amendment of the Senator from Utah [Mr. RAWLINS] to the amendment reported by the committee.

The amendment to the amendment was agreed to.

* * * *

35 Cong. Rec. (1902) (LD 84)

CONGRESSIONAL RECORD—HOUSE
JUNE 16

[6868] AMENDMENTS TO INDIAN APPROPRIATION ACT

Mr. SHERMAN. Mr. Speaker, I move to suspend the rules and pass with an amendment Senate resolution No. 105.

The joint resolution (S. 105) supplementing and modifying certain provisions of the Indian appropriation act for the year ending June 30, 1903, was read as amended, as follows:

In addition to the allotments in severalty to the Uintah and White River Utes of the Uintah Indian Reservation in the State of Utah, the Secretary of the Interior shall, before any of said lands are opened to disposition under any public land law, select and set apart for the use in common of the Indians of that reservation such an amount of nonirrigable grazing lands therein at one or more places as will subserve the reasonable requirements of said Indians for the grazing of live stock.

All allotments hereafter made to Uncompahgre Indians of lands in said Uintah Indian Reservation shall be confined to agricultural land which can be irrigated, and shall be on the basis of 80 acres to each head of a family and 40 not allotted to Indians or used or reserved by the Government, or occupied for school purposes, shall be opened to exploration, location, occupation, and purchase under the mining laws.

In addition to the allotment of severalty of lands in the Walker River Indian Reservation in the State of Nevada, the Secretary of the Interior shall, before any of said lands are opened to disposition under any

public-land law, select and set apart for the use in common of the Indians of that reservation such an amount of nonirrigable grazing lands therein at one or more places as will subserve the reasonable requirements of said Indians for the grazing of live stock.

In addition to the allotments in severalty to the Uintah and White River Utes of the Uintah Indian Reservation in the State of Utah, the Secretary of the Interior shall, before any of said lands are opened to disposition under any public-land law, select and set apart for the use in common of the Indians of that reservation such an amount of nonirrigable grazing lands therein at one or more places as will subserve the reasonable requirements of said Indians for the grazing of live stock.

All allotments hereafter made to Uncompahgre Indians of lands in said Uintah Indian Reservation shall be confined to agricultural land which can be irrigated, and shall be on the basis of 80 acres to each head of a family and 40 acres to each other Indian, and no more. The grazing land selected and set apart as aforesaid in the Uintah Indian Reservation for the use in common of the Indians of that reservation shall be equally open to the use of all Uncompahgre Indians receiving allotments in said reservation of the reduced area here named.

In so far as not otherwise specially provided, all allotments in severalty to Indians, outside of the Indian Territory and Oklahoma Territory, shall be made in conformity to the provisions of the act approved February 8, 1887, entitled "An act to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States and the Territories over the Indians, and for other purposes," and other general acts amendatory thereof or supplemental thereto, and shall be subject to all the re-

strictions and carry all the privileges incident to allotments made under said act and other general acts amendatory thereof or supplemental thereto.

The item of $70,064.48 appropriated by the act which is hereby supplemented and modified, to be paid to the Uintah and White River tribes of Ute Indians in satisfaction of certain claims named in said act shall be paid to the Indians entitled thereto without awaiting their action upon the proposed allotment in severalty of lands in that reservation and the restoration of the surplus lands to the public domain.

The SPEAKER. Is a second demanded on the motion to suspend the rules?

Mr. RICHARDSON of Tennessee. I demand a second.

Mr. SHERMAN. I ask unanimous consent that a second be considered as ordered.

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from New York [Mr. SHERMAN]——

Mr. RICHARDSON of Tennessee. I hope the gentleman will recognize the gentleman from Arkansas [Mr. LITTLE] to control the time in opposition to the motion.

The SPEAKER. The time will be controlled on the one side by the gentleman from New York [Mr. SHERMAN] and on the other by the gentleman from Arkansas [Mr. LITTLE].

Mr. SHERMAN. Mr. Speaker, this is the same resolution that I attempted a week or two ago to have passed by unanimous consent, and to the consideration of which objection was made. The resolution relates to provisions of the Indian appropriation act, which were inserted as amendments in the Senate after it had left this House. To those provisions the House conferees objected as a whole, and also objected to certain parts of them as they were finally agreed upon. But it became necessary for the House conferees to concede what the Senate conferees

demanded [6869] in order to reach an agreement, as it is frequently necessary for the conferees of the one House or the other to yield to those of the other.

After the conference report had been agreed to in both Houses and the bill had gone to the President, a conference, at which I was not present, was held between certain of the conferees and the President of the United States, at which the President raised certain objections to these amendments, and in order to meet the objections of the President this resolution was prepared. It was a concession by the Senate conferees and the Senate, a recession from the position they had taken when the amendments were originally passed and when the conference report was finally agreed to.

The resolution is so plain in its terms that I need not recite its provisions. What it amounts to is this: The Senate has receded from the position which it took originally and which its conferees thereafter took when the conferees met, and the Senate has agreed to this recession and now the House is asked to coincide.

Mr. RICHARDSON of Tennessee. What evidence have we that the Senate has agreed to recede?

Mr. SHERMAN. They have passed this resolution.

Mr. RICHARDSON of Tennessee. This is a Senate resolution?

Mr. SHERMAN. Certainly.

Mr. RICHARDSON of Tennessee. They have agreed, then, to recede from their amendments and passed this resolution?

Mr. SHERMAN. That is the position exactly.

Mr. RICHARDSON of Tennessee. As I understand the gentleman, the President, notwithstanding his objections to the Indian appropriation bill, approved it with these obnoxious provisions in it.

Mr. SHERMAN. Well, I think he approved it with the expectation, if not the understanding, that this resolution would be passed. It had passed the Senate when he signed the appropriation bill.

Mr. RICHARDSON of Tennessee. Was there any contract to that effect?

Mr. SHERMAN. Oh, certainly not. No individual could make a contract for the House. I say the bill was approved with that expectation. The Senate had passed this resolution; and when the President told me he would approve the Indian appropriation bill, I frankly told him that I believed the House would agree to the resolution. I did not undertake to make any such agreement on the part of the House by any manner of means; I simply stated my belief.

Mr. RICHARDSON of Tennessee. This is the third joint resolution, is it not, which has been passed to amend the Indian appropriation bill since it was passed?

Mr. SHERMAN. The second.

Mr. RICHARDSON of Tennessee. This is the third, if I mistake not.

Mr. SHERMAN. No; a resolution did come in here before, but it never passed; and it is embodied in this resolution. Resolution No. 2 is embodied in this. It never did pass the House.

Mr. RICHARDSON of Tennesee. But this is the third effort to amend that act?

Mr. SHERMAN. The gentleman is right. This is the third effort to change the bill as originally passed.

Mr. RICHARDSON of Tennessee. Mr. Speaker, I would like to ask the gentleman if he can give us the assurance now that this is the final one?

Mr. SHERMAN. Mr. Speaker, I can give the gentleman my assurance that this is the last one I shall offer.

Mr. RICHARDSON of Tennessee. Then, as I understand it, this makes the bill satisfactory to the President.

Mr. SHERMAN. I understand so. Mr. Speaker, I reserve the balance of my time.

Mr. STEPHENS of Texas. Mr. Speaker, I would like to ask the gentleman a question.

The SPEAKER. Does the gentleman yield?

Mr. SHERMAN. Yes.

Mr. STEPHENS of Texas. I will ask the gentleman if he will agree to an amendment in line 8, page 3, adding the word "Oklahoma"——

Mr. SHERMAN. That is included in the resolution as it has been read.

The SPEAKER. The gentleman from Arkansas [Mr. LITTLE] is recognized.

Mr. LITTLE. Mr. Speaker, the pending resolution within itself is unobjectionable as far as I am concerned, and has been explained by the gentleman from New York [Mr. SHERMAN] as I understand it. The original objection to the passage of this resolution, so far as it emanated from myself, was inspired by the hope that the President would see his way clear to veto the appropriation bill. I was encouraged in that hope by a statement that appeared in one of the city papers—whether authorized or not I do not know—that the President was objecting to the concessions made to the lessees on the Uintah Reservation. I believe that the President ought to have vetoed the original bill on that account. I hoped that that objection, added to the provisions covered by this resolution, would inspire him to do that, which I believe to be a very proper thing for him to do.

I believe the ratification of the leases and privileges given to the Florence Mining Company can not be justified on any ground. They have made no investitures; they simply get that which ought to belong to the public generally when this reservation is opened. For that reason, and having no further opportunity or hope of securing that result, I do not feel justified in going further in opposition to this particular resolution. I regret very much that the President in his wisdom did not see proper to put his pungent pen against that bill and expose what I believe to be the infamy wrapped up in the Florence Mining Company lease and the Raven Mining lease. These two companies get a vast concession. They are practically, as I believe, one company, as I have been led to believe since the passage of the original bill. The presidents are the

same, the secretaries are the same, and I think the companies are the same; that is, the same in interest, if not the same in name. I believe it is a bad precedent, I believe it is unholy, I believe the requirement of these leases, as I indicated before in my remarks, can be tracked with infamy from their very beginning up to this very morning, and I do not believe that Congress ought to have approved the measure; and when it did approve the bill with these provisions in it, I believe the President ought to have vetoed it, and I regret he has not done so.

Mr. SUTHERLAND. Mr. Speaker, does not the gentleman know that if this reservation had been thrown open, without any provision giving the Florence Mining Company any preferential rights, the Florence Mining Company being acquainted with the reservation property, knowing exactly what they wanted, having the same right to go into the reservation and make locations as any other citizen, which locations would be unlimited in number, whatever is granted to it under this bill is nothing more than a formal concession? In other words, that the Florence Mining Company or their agents, knowing exactly what they wanted to locate, would be naturally put in a better situation to take advantage of the provisions of this bill with respect to locating mining claims than anybody else and would get these 640 acres anyhow. In view of that, I want to ask the gentleman whether he thinks the President of the United States or this House ought to stand in the way of opening a great reservation like that to settlement rather than to give this company what is a mere formal concession to go there and locate 640 acres of land, which they probably would locate anyhow?

Mr. LITTLE. I will be pleased to answer the gentleman. I will say that the very suggestion he makes is one of the strongest possible arguments against the policy of giving permits to prospect and locate leases on Indian reservations.

Mr. SUTHERLAND. I agree with the gentleman. The leasing system is absolutely indefensible.

Mr. LITTLE. I know that the gentleman agrees with me. I know that the gentleman agrees with me that this is as dirty as it can be, if he would but acknowledge it. You want the reservation open. I think it ought to be opened, and in these leases, as written, the very provision reserving to Congress the right to negotiate with these Indians upon the reservation, instead of giving these direct concessions by this law—I admit they are in possession of information they could use when the reservation is opened. Other people may be in possession of that information, but I would not give them this absolute right for more than a year to go in there and locate their claims in advance. If they have the information, which they have gotten, as I believe, infamously, in a large measure, they would have to use that information when that reservation was opened according to the forms of law, and I would not give them an additional year until October, 1903, to go on and further prospect that reservation and increase the advantages that they have over other people.

But that question is behind us, and knowing my friend as I do I verily believe he agrees with me generally that these leases are unfortunate—that it would have been better for the reservation and better for the country if they had never been made—and it would be better for Congress if they had never been approved; but believing as he does, and as many do, that it would be impossible to secure the opening of this reservation and the consent of these Indians in any other way except by ratifying these agreements, I can see why he is willing to take the dose whether it tastes very well or not. That is the situation. These companies hold up the Government, that is what they do. We understand that it is impossible to secure the consent of these Indians under the influence of these lessees in any other way except to recognize their right. I would not do that.

* * * *

36 Cong. Rec. (1903) (LD 90)

CONGRESSIONAL RECORD—HOUSE
JANUARY 28

[1387] The Clerk read as follows:

To enable the Secretary of the Interior to do the necessary surveying and otherwise carry out the purposes of so much of the act of May 27, 1902, making appropriation for the current and contingent expenses of the Indian Department for the fiscal year 1903, and for other purposes, as provides for the allotment of the Indians of the Walker River Reservation in Nevada, and the Uintah and White River Utes in Utah, and the joint resolution of June 19, 1902, providing for the allotment of the Indians of Spokane Reservation in Washington, to be immediately available, $175,000.

For the resurvey and marking of the southern and western boundaries of the Uintah Indian Reservation from the initial point on Green River to the intersection of said boundary line with the range line between ranges 6 and 7 east, of Sac and Lake Meridian, Utah, an estimated distance of 135 miles, at $40 per mile, and for the field examination of said resurvey, $6,000.

Mr. BURTON. Mr. Chairman, I move to strike out these two paragraphs. I should like to inquire, in the first place, whether this is reimbursable, and, in the next place, what is the reason for the very large amount here for the allotment of the lands of the Indians of the Walker River Reservation? Also, there is a third inquiry which naturally presents itself: Why should this provision for the Indians of the Walker River Reservation in Nevada, and the Uintah and White River Utes in Utah, and that for the Indians of the Spokane Reservation in Washington be combined in one omnibus provision? Are there separate estimates for the three? If so, why should they be combined?

Mr. SHERMAN. No; it is one estimate, and the estimate is set out in full in the regular report accompanying the appropriation bill, which I presume the gentleman has before him. If he desires, I will have it read from the desk. It is set out in the report.

Mr. BURTON. I should like to have it read if it is brief. How long is it?

Mr. SHERMAN. About one printed page.

Mr. BURTON. I should like to have the Clerk read it, so that it will appear in the RECORD.

Mr. SHERMAN. In the meantime, let me say the three provisions are covered in one item because in the act of last year which made this survey necessary they were all covered in one item.

[1388] Mr. BURTON. Before the reading begins, are these amounts reimbursable?

Mr. SHERMAN. They are not reimbursable. I ask the Clerk to read the letter of the Secretary.

The Clerk read as follows:

DEPARTMENT OF THE INTERIOR,
Washington, December 3, 1902.

SIR: I acknowledge the receipt of your letter of the 2d instant, calling attention to an item of $157,000 in the estimate of appropriations for the fiscal year ending June 30, 1904, for the surveying, etc., on the Walker River Reservation in Nevada, and the Uintah and White River Utes in Utah, and $6,000 for the resurvey and marking of the southern and western boundaries in the Uintah Reservation, etc., and in reply to your request to be informed of the "necessity for these appropriations, what is desired to be accomplished by them, and whether or not anything has been done to carry out the law with reference to the Uintah Reservation passed last year," beg to state, as to the last inquiry, that the $70,064.48 provided by the act of May 27, 1902,

to be paid to the Utes, has been so paid, in accordance with the terms of public resolution No. 31, approved June 19, 1902.

On June 6, 1902, estimate for surveying the Walker River, Uintah, and Spokane reservations, and for allotments to the Indians thereon, was hastily made because of the approaching adjournment of Congress, and forwarded to that body through the Senate and House Committees on Indian Affairs, no provisions for these purposes having been made in the Act of May 27, 1902, aforesaid which required allotments to be made to the Indians of those reservations; but no action thereon seems to have been taken beyond a provision in the deficiency act approved July 1, 1902 (32 Stat., 575), which requires the Secretary of the Interior "to cause careful estimates to be made and submitted to Congress at the beginning of its next session for survey of the Walker River Reservation in Nevada, the Uintah Reservation in Utah, and the Spokane Reservation in Washington."

The estimates for these surveys have been prepared and will be immediately forwarded to Congress, the amounts thereof being severally as follows:

Walker River	$11,118.75
Uintah	108,756.00
Spokane	17,000.00
Total for surveys	136,874.75

To this sum is to be added the amounts required for allotments on the said reservations, as per Department letter of June 6, 1902, viz:

Walker River	$4,000.00
Uintah	12,000.00
Spokane	2,000.00
Total for allotments	18,000.00

making in all, $154,874.75.

The necessity for this appropriation lies in the fact that the law can not be fully executed without the means to survey the reservation and to make allotments to the Indians thereof, as provided by the aforesaid act of May 27, 1902.

If it is still the wish of Congress that this shall be done, the sum of money above named will necessarily be required to carry the same into effect.

Very respectfully,

E. A. HITCHCOCK,
Secretary.

Hon. JAMES S. SHERMAN,
Chairman Committee on Indian Affairs,
House of Representatives.

Mr. BURTON. I withdraw the formal amendment.

Mr. SUTHERLAND. Mr. Chairman, I move to strike out the section just read by the Clerk. I do not know whether the amendment of the gentleman from Ohio included that or not. Did I understand that it did?

Mr. BURTON. I did not hear the gentleman's statement.

Mr. SUTHERLAND. Did your motion to strike out include both sections?

Mr. BURTON. From line 4 down to and including line 23.

Mr. SUTHERLAND. The motion was withdrawn. I desire to move to strike out the paragraph just read.

The Clerk read as follows:

> Strike out from lines 16 to 23, both inclusive, on page 35.

Mr. SUTHERLAND. Mr. Chairman, at the last session of Congress we provided for opening the Uintah Indian Reservation. This bill makes an appropriation of a large part of the $175,000 mentioned in the preceding paragraph for this purpose. This is appropriated for making

surveys for allotments and such other surveys as may be necessary to carry that act into operation. If the Uintah Reservation is opened, which I believe it will be, this appropriation of $6,000 for reestablishing the boundary lines of the reservation is entirely useless. The boundary lines have been in their present condition for many years, and if by any mischance the reservation should not be opened it will not hurt to let it wait for another year; and if the reservation is opened it is simply an appropriation of $6,000 without any useful purpose whatever. I think it should be stricken from this bill.

Mr. LACEY. Will the gentleman allow me to ask him a question?

Mr. SUTHERLAND. Certainly.

Mr. LACEY. Whether the reservation is opened or not, is it not necessary to define these boundaries? The adjoining land is private land to-day, and the boundary line becomes a matter of importance; so that if this reservation is finally opened these surveys will not be lost. That much surveying will already have been done, and it will not have to be done again. It will be a starting point for the final survey in the opening of the entire reservation.

Mr. SUTHERLAND. The reservation will be simply restored to the public domain. Of course it can not interfere with the private lands. The allotments that are made to the Indians are made in a part of the reservation entirely away from this line. It seems to me that if the reservation should be opened that that survey would be entirely useless.

Mr. SHERMAN. The fact is that these Indians have claimed for several years that a fraud was perpetrated upon them when this line was laid out. They have alleged that the line was not in fact laid out at all; that the surveyors sent there for that purpose devoted their energies to amusements that suited them while occupying their tents for a while, and that, as a matter of fact, they never ran out the line; and that the white people of Utah have

since claimed the line was wherever they chose, and have maintained it, and because of that fact white persons have encroached very materially upon their reservations.

Now, I do not pretend to say whether or no the contention be true, but I do maintain that we can not afford in our dealings with the Indians, for the sake of saving $4,000 or $5,000, the expense of a survey, to permit them to go on indefinitely with the idea that we quietly sit by as a government and permit the white people to perpetrate a wrong upon them by reason of neglect of duty by the officials we sent there. I think the amendment ought not to prevail.

The CHAIRMAN. The question is on agreeing to the amendment.

* * * *

CONGRESSIONAL RECORD—SENATE
FEBRUARY 14

[2180] The amendment was agreed to.

The next amendment was on page 42, line 18, after the word "dollars," to insert the following proviso:

> *Provided, however,* That the Secretary of the Interior shall forthwith send an inspector to obtain the consent of the Uintah and White River Ute Indians to an allotment of their lands as directed by the act of May 27, 1902, and if their consent, as therein provided, can not be obtained by June 1, 1903, then the Secretary of the Interior shall cause to be allotted to each of said Uintah and White River Ute Indians the quantity and character of land named and described in said act: *And provided further,* That the grazing lands to be set apart for the use of the Uintah, White River Utes, and other Indians, as provided by public resolution No. 31, of June 19, 1902, be confined to the lands south of the Strawberry River on said Uintah Reservation, and shall not ex-

ceed 250,000 acres: *And provided further*, That the time for opening the unallotted lands to public entry on said Uintah Reservation, as provided by the act of May 27, 1902, be, and the same is hereby, extended to October 1, 1904.

The amendment was agreed to.

* * * *

H.R. Doc. No. 33, 58th Cong., 1st Sess. (1903) (LD 92)

HOUSE OF REPRESENTATIVES

58th Congress, 1st Session Document No. 33

GRANT OF LANDS FOR USE OF CERTAIN INDIANS

LETTER

From

THE SECRETARY OF THE INTERIOR,

Transmitting,

WITH THE COPY OF A REPORT FROM THE COMMISSIONER OF INDIAN AFFAIRS, A RECOMMENDATION FOR LEGISLATION RELATING TO THE UINTA RESERVATION IN UTAH.

DECEMBER 1, 1903.—Referred to the Committee on Indian Affairs and ordered to be printed

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DEPARTMENT OF THE INTERIOR,
Washington, November 30, 1903.

SIR: I have the honor to transmit herewith copy of a report of 23d instant from the Commissioner of Indian Affairs and accompanying paragraph for insertion in the bill making appropriations for the Indian service for the fiscal year ending June 30, 1905, together with copies of correspondence in relation thereto.

This paragraph relates to the Uinta Reservation in Utah, and provides that before any of the lands are opened to disposition under any public-land law that the Secretary of the Interior shall select and set apart for the use in common of the Indians of that reservation, including all Uncompahgre Indians receiving allotments in said reservation of the quantity of lands as provided by public resolution No. 31, of June 19, 1902, one tract not exceeding one township in extent as a timber reserve, said tract to embrace the agency sawmill; one tract not exceeding one township in extent, containing dwarf cedar for fuel and fence posts, and a tract of 160 acres, embracing a vein of coal situated on Farm Creek; and it further provides that the Secretary in his discretion cancel the allotment made to any Uncompahgre Indian within the former Uncompahgre Reservation for which a trust or other patent has not issued, and in lieu thereof allot such Uncompahgre Indians in the Uinta Reservation in quantity as provided in said public resolution No. 31.

This matter has been considered by the Department, and I have the honor to recommend that it receive favorable action by the Congress.

Very respectfully,

E. A. HITCHCOCK,
Secretary.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, November 23, 1903.

SIR: Under date of August 25, 1903, you returned to this office the report of Inspector James McLaughlin of his negotiations with the Uinta and White River Utes of Utah, relative to the opening of the Uinta Reservation as

provided by the acts of May 27, 1902 (32 Stats., 245) and March 3, 1903 (32 Stats., 982); and directed the preparation of the necessary correspondence relative to the setting apart of one township as a timber reserve to embrace the agency sawmill, one township of the dwarf cedar tract to supply the Indians with fence posts and wood fuel, and 160 acres located on Farm Creek as a coal reserve.

Under date of September 9, 1903, Acting Agent Mercer made report upon a communication from Hon. George Sutherland, of Salt Lake City, in regard to the character of the land allotted the Uncompahgre on the former Uncompahgre Reservation. Captain Mercer expressed the opinion that these Indians should be given allotments on the Uinta Reservation, and stated that there is land enough to allot them in addition to the Uinta and White River.

There were 83 Indians allotted on the Uncompahgre Reservation and to allot these 83 on the Uinta Reservation would require not to exceed 5,000 acres.

Congress can undoubtedly authorize you to cancel these allotments, patents not having issued, and I am of the opinion that this authority should be granted.

I have accordingly prepared the draft of an item authorizing the setting apart of the three reserves mentioned, and containing a proviso authorizing the Secretary of the Interior, in his discretion, to cancel any allotment made in the former Uncompahgre Reservation, and to allot to the Indian whose allotment may be canceled lands in the Uinta Reservation in quantity as provided in public resolution No. 31, approved June 19, 1902 (80 acres to head of family and 40 acres to each other person), and have the honor to recommend that the same be transmitted to the Senate Committee on Appropriations and the House Committee on Indian Affairs, with the request that it be inserted in the Indian appropriation bill.

I also transmit duplicate copies of Inspector McLaughlin's report, office report of July 18, 1903, your letter of August 25, 1903, Mr. Sutherland's letter of June 13, 1903, and Captain Mercer's report of September 9, 1903, and inclosures.

Very respectfully,

W. A. JONES,
Commissioner.

THE SECRETARY OF THE INTERIOR.

Paragraph for insertion in Indian appropriation bill.

That in addition to the allotments in severalty to the Uinta and White River Utes of the Uinta Indian Reservation in Utah, and to the grazing lands to be selected and set apart for the use in common of said Indians and of the Uncompahgre Indians, the Secretary of the Interior shall, before any of the lands of said reservation are opened to disposition under any public-land law, select and set apart for the use in common of the Indians of that reservation, including all Uncompahgre Indians receiving allotments in said reservation of the reduced area provided by public resolution numbered thirty-one, of June nineteenth, nineteen hundred and two, one tract not exceeding one township in extent as a timber reserve, said tract to embrace the agency sawmill; one tract not exceeding one township in extent containing dwarf cedar for fuel and fence posts, and a tract of one hundred and sixty acres embracing a vein of coal, situated in Farm Creek: *Provided,* That the Secretary of the Interior may, in his discretion, cancel the allotment made to any Uncompahgre Indian within the former Uncompahgre Reservation and for which a trust or other patent has not issued, and in lieu thereof allot such Uncompahgre Indian in the Uinta Reservation in quantity, as provided in said public resolution numbered thirty-one.

DEPARTMENT OF THE INTERIOR,
UNITED STATES INDIAN SERVICE,
Uinta Agency, Whiterocks, Utah, May 30, 1903.

SIR: Under instructions prepared in the Office of Indian Affairs, dated April 27, 1903, approved by the Department April 29, I have the honor to report results of my negotations with the Uinta and White River Utes, of the Uinta Reservation, Utah, under the provisions of the act of Congress of May 27, 1902, as amended by the Indian appropriation act approved March 3, 1903, in reference to the opening of their reservation, the full import of which, as affecting their lands and other interests, I carefully explained to the Indian, and am confident that a majority of them now fully understand the force of said acts quite clearly.

I reached the Uinta Agency on Wednesday, the 13th instant, and on the following morning sent out policemen to notify the Indians to meet me in council at the agency on Monday, the 18th instant, on which latter date our first council was held and at which there were 127 Indians present.

I explained minutely to the Indians, in open council, the provisions of said acts of Congress involving their interests, and repeatedly explained to them during our six days' council the more important features of the law, with a reference to the minutes of councils, transmitted herewith, will show.

Wanrodes alone, of all the Indians who spoke in council, discussed the question intelligently. (See minutes of council, pp. 66 and 67.) The other speakers made little or no reference to the question of accepting allotments under the law, their speeches being chiefly in opposition to opening the reservation, contending that their reservation could not be opened to settlement without their consent; that such was well known by everybody and had repeatedly been told the Indians by Government officials;

and some of the speakers, who have been members of delegations visiting Washington, stated that they were thus advised by officials of the Department during their visit to Washington. (See pp. 15, 21, 27, 43, and 50, minutes of councils.)

The statements, whether true or false, of Indians visiting Washington, are usually believed by their people when relating their experience upon their return home, and in consequence of which, from the above assertions of some of the speakers, it was difficult to bring many of the Indians to understand the full force of this new legislation. Several of the speakers, apart from contending that the reservation could not be opened to settlement without obtaining their consent, said that they should at least have been visited by some Government official and consulted regarding the matter before legislation of such vital importance to them was enacted regardless of their wishes.

The councils were well attended from the beginning and throughout the six days' sessions, but I soon discovered that it was being dominated and controlled by Indians opposed to opening the reservation (chiefly White Rovers, led by Tim Johnson) and which element was deterring persons from expressing themselves whom they feared might favor the proposition. Learning that some of the leading men of the Uinta thought favorably of the proposition and were ready to concur in the provisions of the act, and finding on the evening of the fifth day's council that the opposition was as strong and active as in the beginning, I concluded to hold my final council with them the following day, and therefore announced that I would prepare a paper for signatures and read it to them in full council the following afternoon, so that all assenting to the provisions of the act could sign the instrument of acceptance; that our next meeting would be our last council, and I desired a full attendance so that all might hear the paper referred to read, and also my parting words of advice to those assembled.

Pursuant to Friday's adjournment, the council was reconvened the following afternoon, Saturday, the 23d, for its sixth and last session, with 134 Indians in attendance, whereupon (as shown by the minutes of councils, p. 72) I read and explained the instrument of acceptance which I had prepared, and invited all concurring in the provisions of the act to sign the same, telling them that it would be in the agent's office, open at all times for signers to affix their signatures while I remained at the agency.

I then invited any of the Indians desiring to express themselves regarding the matter to do so, upon which invitation Henry Harris, representing the sentiment of the better-disposed element of the Indians, requested their agent, Capt. W. A. Mercer, U. S. Army, to express himself in reference to the questions before the council, whereupon Captain Mercer, after first addressing me in the name of the Indians, speaking forcibly in their behalf, then spoke to the Indians, giving them good, wholesome advice, as shown by minutes of the council, pages 75 to 80, inclusive. After Captain Mercer had concluded his speech, I addressed a few additional remarks to the Indians, among other things advising them that surveyors would soon be on the reservation surveying the lands preparatory to the carrying out of the provisions of the law which had been enacted; that such surveyors would be upon the reservation by authority of the Government and must not be interfered with, as they would be under the protection of the strong arm of the Government.

My talk in this respect appeared to be well received, and notwithstanding that the Indians feel very sore over this new legislation, I am quite confident that they will not commit any overt act, nor interfere with any person coming on the reservation by proper authority. If the incomers are endowed with common sense, practice fair dealing, and exercise prudence when meeting any of these Indians in the field, they will have no difficulty in getting

along smoothly with them. The Indians deported themselves very commendably throughout our councils, and the best possible feeling prevailed at the final adjournment. A majority of those attending the last council accompanied us to the agent's office and 31 of them signed the paper of acceptance before going home, and others kept coming in from day to day during the past week until 82 have thus concurred in the act. The signers are chiefly Uinta, only 7 White Rivers having signed the paper assenting thereto.

The Uinta Indians are well disposed, and there is little doubt but that the signatures of a majority concurring in the act could have been obtained by remaining at the agency a couple of weeks longer or by canvassing the Uinta settlements of the reservation, but the White Rivers were obstinate and would not be convinced by logical reasoning or argument. Tim Johnson, the leading spokesman of the White Rivers, came to me the second day after the termination of the council and told me that the White Rivers had directed him to tell me that they would give up all claim to the Uinta lands and leave the reservation if the Government would permit them to remove to the Bear River Valley in Colorado. I told him that the proposition was untenable and could not be entertained, but he insisted upon me submitting his request in my report, hence my mentioning it.

The Uinta Agency rolls show 159 Uinta and 121 White River male adults belonging to the Uinta Reservation, a total of 280 male adults; 82 of whom assented to the provisions of the act, as shown by the instrument of acceptance, transmitted herewith, containing their respective signatures; and, notwithstanding that those assenting to the act, as expressed by their signatures, are only a fraction over one-fourth of the male adults of the reservation, I deemed it proper to transmit the same, but with the explanation that the signers were as much opposed to the opening of the reservation without consulting the

Indians as the nonsigners were, but they thus expressed their acceptance of the law to show their good will and readiness to comply with the wishes of the Government. In view of this fact, it appears to me that they should receive some special recognition for their friendly attitude in the premises, and that when the lands are allotted they be permitted to select their allotments on any irrigable lands within the reservation.

In Captain Mercer's appeal for the Indians he set forth the necessity of setting apart a tract of timber land situated northwest of the Uinta Agency, to embrace the agency sawmill, which mill, including planer, shingle and lath machinery, is located about 13 miles northwest of the agency. It is practically new, is in first-class condition, and of great benefit to the reservation at the present time in providing necessary building material which is very much needed by both agency and Indians. I digress to state that I visited this mill and found that it was being well managed and doing excellent work.

From a very fair knowledge of the character of the country embraced in the Uinta Reservation, I submit that I regard the setting apart of a timber reserve as absolutely necessary for the welfare of these Indians who, under the law, must be allotted irrigable lands only, and the irrigable lands of the reservation contain little or no timber.

The bench lands, so called, nearly all of which can be irrigated, are the most desirable lands for farming purposes of the reservation, but they are entirely devoid of timber, and it therefore becomes necessary that the Indian allottees have a timber reserve from which they can obtain building material, fence posts, and fuel, this timber reserve to be held in common or equally apportioned among the allottees.

There is an abundant supply of good pine and cedar timber in the mountains adjacent to the Uinta Agency,

from which the Indians now obtain their building material and fuel; but under the provisions of the act opening the reservation, they will be deprived of all timber except what may be found to be within the tract of land to be reserved for grazing purposes south of the Strawberry River, and from having traveled over that section of country in August, 1901, when examining the Raven Mining Company's mineral locations, under Department instructions, I know that there is very little timber south of Strawberry River within the Uinta Reservation, except in the extreme southeastern corner, about 70 miles from where the principal settlements of the Indians are now located, and where the greatest portion of the allotments will doubtless be made.

In view of the above-stated facts, I respectfully suggest and strongly recommend that a timber reserve of at least one township (6 miles square) be set apart, from which these Indians may obtain building material, the tract suggested to embrace the agency sawmill, also a township of the dwarf-cedar tract near the agency, to supply them with fence posts and wood fuel.

A tract of 160 acres of land, embracing a certain vein of coal, situated in Farm Creek, about 8 miles north by northwest of Uinta Agency headquarters at Whiterocks, should also be reserved for use of the Indians to provide them with fuel.

The contract price of wood at the military post of Fort Duchesne, 14 miles from the Uinta Agency, is $8.50 per cord, and this native coal is $6.80 per ton; hence the importance of the Indians being provided with means of obtaining their fuel without being obliged to buy it, which under the most favorable conditions would be a great hardship to them, and they would scarcely be able to meet the expense.

The absence of timber for building purposes and fuel on the irrigable lands of this reservation make it absolutely necessary that a reasonable tract of timber land

and 160 acres of coal land be reserved for use of the Indians before the reservation is opened for settlement. Should it be found necessary in order to set apart the timber and coal reserves herein recommended, the grazing tract of not exceeding 250,000 acres south of Strawberry River, provided for in the act, might be proportionally reduced.

The reservation of the tracts herein suggested, all of which are mountainous and unsuited for agriculture, need not prevent the lands being prospected over for mineral deposits, should that be a consideration, as all the Indians would need is the privilege of obtaining their supply of building material and fuel therefrom.

It was doubtless an oversight, or from inaccurate information as to the timbered portions and resources of the reservation, that the importance of reserving sufficient timber land for use of the Indians was not provided in the act.

In this connection I would also respectfully recommend that the 250,000 acres of common grazing land be set apart in two or more places, so as to meet the convenience of the Indians of the respective districts.

In conclusion, I desire to state that while the signatures of a majority of the male adult Indians of the reservation were not obtained, I feel that I accomplished all that could reasonably be expected, considering the attitude of the Indians in reference to the matter when I reached the agency, they being then unanimously opposed to the opening of their reservation under the provisions of the act; but through clear explanations of the law and painstaking argument I succeeded in bringing them to understand that their reservation is going to be opened as provided in the act; that its survey will soon be commenced, and when completed allotments will be made to them, after which the residue will be opened to settlement, except the tract of 250,000 acres situated south of Straw-

berry River, which is to be reserved for their common use for grazing purposes. They held out strenuously against accepting this statement as a fact, but were finally brought to understand it fully and clearly, and now accept it, at least passively, with as good grace as is reasonable to expect.

Those of the Indians who signed the acceptance of the act did so, as heretofore stated, to show their good will, and many others would doubtless have signed had there been anything to be gained by their doing so. They fully understood that they were to have lands allotted to them whether they consented to the act or not, and having nothing to lose by refusing to assent to the provisions of the act, they declined to sign and thus became a party to that which was distasteful to them. There is not the slightest doubt, however, in my mind, judging from the courteous manner in which the Indians treated me, and the confidence they have in Captain Mercer, but that they will all acquiesce gracefully and meet the wishes of the Department in the premises.

They are now all diligently employed and appear much happier than when I arrived at their agency on this mission.

I desire to express my appreciation of the valuable assistance rendered me by Captain Mercer, acting Indian agent, and also by Mr. J. F. MacKey, agency clerk, who did my stenographic work, and whose work may be seen by reference to the minutes of councils transmitted herewith.

I am, sir, very respectfully, your obedient servant,

JAMES MCLAUGHLIN,
United States Indian Inspector.

The SECRETARY OF THE INTERIOR,
Washington, D. C.

DEPARTMENT OF THE INTERIOR,
Washington, August 25, 1903.

SIR: I have considered your letter of 16th ultimo, upon the report of Inspector McLaughlin of his negotations with the Uinta and White River Utes of Utah, relative to the opening of the Uinta Reservation as provided by the acts of May 27, 1902, and March 3, 1903.

As to the suggestions of Inspector McLaughlin for the reservation of one township as a timber reserve to embrace the agency sawmill and one township of the dwarf cedar tract to supply the Indians with fence posts and wood fuel and 160 acres located on Farm Creek as a coal reserve, which seem to be required, I am of the opinion as the legislation governing this matter provides that all the unallotted lands, except the reserved grazing lands of 250,000 acres, shall be opened to public entry on October 1, 1904, it is better that Congress should authorize the setting aside or reserving from public entry the two timber reserves and the coal reserve, and you will please prepare the necessary correspondence for presentation to Congress at its next session.

The inclosures to your letter are herewith returned.

Very respectfully,

E. A. HITCHCOCK,
Secretary.

The COMMISSIONER OF INDIAN AFFAIRS.

[Sutherland, Van Cott & Allison, attorneys and counsellors at law.]

SALT LAKE CITY, UTAH, *June 13, 1903.*

MY DEAR SIR: I have recently returned from a visit to what was formerly the Uncompahgre Indian Reservation in the eastern part of the State, and while there my

attention was called, by Mr. McAndrews, formerly chief of Indian police, and others, to some of the allotments made to Indians on White River, and I was very much surprised to see the character of land which had been given to these Indians. It is of an exceeding poor quality, sandy, rocky, and barren. Nothing grows upon it except some cottonwoods near the water and sage brush and grease wood. It looked to me to be entirely valueless, even for grazing purposes. I was told that these Indians, when they made the selections, knew absolutely nothing about the value of land. They are like children and are not capable of judging what is best for themselves. They were therefore imposed upon in the matter of their allotments, perhaps without anybody being to blame therefor. I do not know that anything can be done to remedy this situation, but it is a matter which should be remedied if at all possible.

If you think it worth while, and care to have me do so, I will very gladly get detailed statements from people of that locality who are familiar with the situation, and forward them to you.

Very truly, yours,

GEO. SUTHERLAND.

Hon. WM. A. JONES,
Commissioner of Indian Affairs,
Washington, D. C.

UINTA AND OURAY AGENCY,
Whiterocks, Utah, September 9, 1903.

SIR: In reply to your letter of July 28, I have to report that I have personally visited the Ouray Reservation for the purpose of getting reliable information on the matter referred to. The result of my investigation is that I am convinced that the Uncompahgre Indians should be given allotments on the Uinta Reservation and they

should after a time, or as soon as conditions are suitable, move to these allotments. Based on the belief that it will be impossible to make any allotments on the Uinta Reservation for at least another year, it will probably be better to allow the Uncompahgres to remain as they are for about two years and then move them to their new allotments on the Uinta Reservation.

There is enough land on the Uinta Reservation to allot the Uncompahgres in addition to the Uintas and White Rivers. This will, of course, not leave much land for white settlers. I make the above recommendation for several reasons, the most important of which is that in order for these Indians (the Uncompahgres) to make any advancement in civilization and to engage in industries it is necessary that they should be confined to a comparatively limited area. In this connection the Uintas and White Rivers will be much improved in conditions generally if their allotments were given to them in almost compact form. This would remove the greatest present obstacle to their progress, particularly in education, namely, the manner in which they are scattered over a vast extent of territory, inaccessible in part and very difficult to reach in a majority of cases. If placed in a more compact body, the attendance at the school could be largely increased. As it is now, many of the Indians with their chldren are scattered among the mountains and over an area of 150 miles in extent, and they must be hunted down and brought in. If they were concentrated and centrally located there would be no trouble on this account, and, furthermore, a system of day schools could be established among them which would be very beneficial; likewise their industries could be prosecuted to greater advantage under the supervision of the agency employees, which is now almost an impossibility.

I am satisfied that the Uncompahgres will never advance in civilization unless they are taken from their present resorts and homes and placed where they can

be reached by civilizing influences. To locate them with the Uintas and White Rivers, on the Uinta Reservation, is, in my opinion, the best plan. They will not be willing to accept it. Many of them will sulk and be discontented, as the White Rivers now are, but, for the future good of both these tribes, they should be compelled to pursue the course which is best for that end, and not be allowed to follow the advice of the discontented and ignorant members, who oppose everything tending to their benefit.

Mr. J. A. Robb, for several years clerk at Ouray Agency, and Mr. Wallace Stark, carpenter at Ouray Agency, are familiar with the Uncompahgre Indians, their condition and their needs. I have called upon them for information and I inclose their reports herewith. Referring to their reports in regard to a tract of land which they mention as being so located that it can be irrigated and rendered suitable for locating the Indians thereon, although there are allotments made there already, there is a doubt in my mind as to whether it can be irrigated, or, if irrigated, whether it could be made profitable for the Indians to use. There is a great deal of land in that vicinity which, after it is watered, is of no value and will not produce crops of any kind, but there is a great deal of good land on the Uinta Reservation and enough for all.

Very respectfully,

W. A. MERCER.
Captain, Seventh Cavalry, Acting United States Indian Agent.

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

UNITED STATES INDIAN SERVICE,
Ouray, Utah, August 27, 1903.

SIR: In reply to your letter dated August 18, in regard to Indians who were alloted their land on the Uncompahgre Reservation, I will say—

First. That from what I can learn it was the policy of the alloting commission to allow the Indians their choice of locations, and most of them took advantage of it, but I do not think all of them did.

Second. It is my opinion that few, if any, of the Indians would have an idea of land value; they know that the land should be reasonably level for agricultural purposes, but that is about all.

Third. There is a strip of land on lower White River, about 12 miles long by 2 miles wide, bottom land. I think it is as good land, if not better, than could be found on the Uinta Reserve for agricultural purposes. This land, I understand, is allotted them. There is no water on the land, but I think it is practicable to put in a dam across the river and take the water out on either side. I understand the Government, some years ago, did take the water out some 4 miles up from the mouth of the river, but the ditch never was kept in repair and let go down. The Indians on this land—I do not think it would benefit them to move—but if it can be done, put the water on their land. There are a few Indians that have land on Willow Creek, but there is not sufficient water through the summer season. There is an allotment or so on Bitter Creek that is supposed to be pretty good, but I think is much better for a stock ranch than for agricultural purposes. I understand the land is watered from springs and surrounded by a pretty good range. Where some of the Indians who have a little stock and an allotment of this kind, and wish to stay with it, it would be well for some member or so of the family to have an allotment on some good agricultural land—it might sometime benefit them all. I have no records, but I think there

is several Indians on the Uncompahgre Reserve that have no allotments, but claim where they have been camping.

Fourth. I think very few, if any of the Indians would care to move; a few might be persuaded, who has land that can not be watered, to take up good agricultural land elsewhere for future use for such time as they might be driven out of that country by stockmen.

Fifth. To move them now I think they would have to be given to understand that they must go, although no demonstrative force might be needed.

Sixth. The land on lower White River of course is yet untried, but from the appearance could be made very productive and would make good homes. Possibly a few locations on Bitter Creek and Willow Creek that in connection with stock raising would make the owners a good living, but I think they are few.

Seventh. My opinion is based on having seen most of the agricultural land, and from hearsay and talk with others I will say that I feel unable to discuss an important subject as this and do it justice, but have given my ideas in brief to the best of my judgment.

Respectfully,

WALLACE STARK.

Capt. W. A. MERCER, U. S. Army,
Acting Indian Agent, Whiterocks, Utah.

UINTA AND OURAY AGENCY,
Whiterocks, Utah, August 31, 1903.

SIR: In reply to Commissioner's letter, dated July 28, 1903, in which he asks for report on the condition of allotments made to Indians on the former Uncompahgre Reservation, I have the honor to make the following report:

It has been my privilege to see about three-fourths of the land that is reported to have been allotted to Indians, including that on Bitter Creek, which is on the line between Utah and Colorado. Starting from the mouth of White River, there is a strip of land 12 miles long by an average width of 2 miles which can be used for agricultural purposes if a ditch is put in on each side of the river. From reports of the allotting commissioners' all of the frontage on this river has been taken by the Indians. At the head of this strip of land a dam has been put in by a company of white men who intend to utilize strips of land back of the allotments made to Indians. These white men seemed to think that all of this land can be used for farming if properly made ditches are put in. In my opinion this land can not be used by an Indian for the reason that the formation of this ground is of sandy dirt 6 to 10 feet in depth, and will easily wash away unless ditches are properly handled by an experienced man.

The Willow Creek district I have never seen, but from what the Indians say there is a little spring there that furnishes water for about 5 acres of land. There are a number of Indians that live here in winter, but they move away from it in summer for the mountains, where they pick up a summer's living from the ranchmen.

From the 12-mile point up the White River I have seen a number of camps where an allotment or two are made in each pocket of the river, but from the books of these places there could not be more than 40 or 60 acres in them, as the river here is a canyon, the bluffs running from 100 to 300 feet straight up from the river. There are patches here and there that can be used for summer pasturing. The Indians who live in these little pockets of the river also move up into mountains in the summer and live on ranchmen. If any move is made to get them on the Uinta Reservation they will seriously object, as they are well satisfied with their surrounding for the pres-

ent, but for their future good land should be allotted to them elsewhere, even if they do not move to it at the time of allotment.

Up on the Bitter Creek, or rather at the head of it, there is a camp of Indians. There is plenty of good pasturing for a ranch and good for small gardens, but it is my opinion that ranching by an Indian in this locality could not last long, as white men are establishing ranches in the immediate vicinity, who will soon take advantage of the Indian and steal away all he has got. The Indian will then be glad to move away from there. These Indians should be allotted land on the Unita Reservation whether they move now or not, as they will benefit by it in the long run.

Take it all, the former Uncompahgre Reservation is not a place where the Indians should be allowed to stay. It would be a kindly act on the part of the Government to move these Indians to the Uinta Reservation.

Very respectfully,

J. A. ROBB,
Assistant Clerk.

W. A. MERCER,
Captain, Seventh Cavalry,
Acting United States Indian Agent,
Uintah and Ouray Agency, Utah.

S. 6867, 58th Cong., 3d Sess. (1905) (LD 97)

A BILL

To provide the manner of opening for settlement and entry and for disposing of certain lands in the Uintah Reservation in Utah.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the time for opening to public entry the unallotted lands on the Uintah Reservation in Utah having been fixed by law as the tenth day of March, nineteen hundred and five, it is hereby provided that the manner of opening such lands for settlement and entry, and for disposing of the same, shall be as follows: That the said unallotted lands, excepting such tracts as may have been set aside as national forest reserve, shall be disposed of under the general provisions of the homestead and townsite laws of the United States, and shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the manner in which these lands may be settled upon, occupied, and entered by persons entitled to make entry thereof; and no person shall be permitted to settle upon, occupy, or enter any of said lands, except as prescribed in said proclamation, until after the expiration of sixty days from the time when the same are thereby opened to settlement and entry: *Provided,* That the rights of honorably discharged Union soldiers and sailors of the late civil and the Spanish war or Philippine insurrections, as defined and described in sections twenty-three hundred and four and twenty-three hundred and five of the Revised Statutes, as amended by the Act of March first, nineteen hundred and one, shall not be abridged: *And provided further,* That all lands opened to settlement and entry under this Act remaining undisposed of at the expiration of five years from the taking effect of this Act shall be sold and disposed of for cash, under the rules and regulations to

be prescribed by the Secretary of the Interior, not more than six hundred and forty acres to any one person. The proceeds of the sale of such lands shall be applied as provided in the Act of Congress of May twenty-seventh, nineteen hundred and two, and the Acts amendatory thereof and supplemental thereto.

S. Doc. No. 159, 58th Cong., 3d Sess. (1905) (LD 101)

SENATE

58th Congress, 3d Session Document No. 159.

OPENING OF THE UINTAH INDIAN RESERVATION IN UTAH

LETTER

from

THE SECRETARY OF THE INTERIOR,

Transmitting

A COPY OF A REPORT FROM THE COMMISSIONER OF INDIAN AFFAIRS CONTAINING A HISTORY OF THE ACTION TAKEN BY HIS OFFICE TO COMPLY WITH THE PROVISIONS OF THE ACT OF MAY 27, 1902, FOR THE OPENING OF THE UINTAH INDIAN RESERVATION IN UTAH.

FEBRUARY 15, 1905.—Referred to the Committee on Indian Affairs and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
Washington, February 15, 1905.

SIR: I have the honor to acknowledge the receipt of a resolution of the Senate dated February 4, 1905, in the following words:

> *Resolved,* That the Secretary of the Interior be, and he is hereby, directed to report to the Senate, without delay, what steps have been taken to comply

with the provisions of the act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June thirtieth, nineteen hundred and three, approved May twenty-seventh, nineteen hundred and two, which provides for the opening of the Uintah Reservation; and that he further furnish the Senate with all the causes which operated to stay the opening of said reservation, together with a copy of such order or orders made by him or by his direction, to carry out the said act of Congress in relation to the said reservation.

In response I transmit herewith a copy of a report from the Commissioner of Indian Affairs, dated the 11th instant, which contains a history of the action taken by his Office, under Department directions, to comply with the provisions of the act of May 27, 1902, for the opening of the Uintah Indian Reservation, in Utah; also a statement of the causes which operated to stay the opening of said reservation.

Accompanying this report are copies of all correspondence of record in the Department up to date on the subject.

Special attention is invited to the letter from the Commissioner of the General Land Office, dated February 6, 1905, reporting as to the time necessary to complete the allotments required by the act of May 27, 1902.

Very respectfully,

E. A. HITCHCOCK,
Secretary.

The PRESIDENT PRO TEMPORE
OF THE UNITED STATES SENATE.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, February 11, 1905.

SIR: I have the honor to acknowledge the receipt, by Department reference of February 4, 1905, of Senate resolution of February 4, 1905, for consideration and report. The resolution reads:

> *Resolved,* That the Secretary of the Interior be, and he is hereby, directed to report to the Senate, without delay, what steps have been taken to comply with the provisions of the Act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June thirtieth, nineteen hundred and three, approved May twenty-seventh, nineteen hundred and two, which provides for the opening of the Uintah Reservation; and that he further furnish the Senate with all the causes which operated to stay the opening of said reservation, together with a copy of such order or orders made by him or by his direction to carry out the said act of Congress in relation to said reservation.

The act of May 27, 1902 (32 Stat. L. 263), provides that the Secretary of the Interior, with the consent thereto of a majority of the adult male Indians of the Uintah and White River tribes of Ute Indians, to be ascertained as soon as practicable by an inspector, shall cause to be allotted to each head of a family 80 acres of agricultural lands, which can be irrigated * * * said allotments to be made prior to October 1, 1903, on which date all the unalotted land within said reservation shall be restored to the public domain. No appropriation was provided in this act for the purpose of carrying it out.

Under date of May 28, 1902, the Department directed this Office to prepare an estimate, without delay, of the cost of making allotments on the Uintah Reservation,

and stated that the Commissioner of the General Land Office had been called on to furnish an estimate for the surveys. (Copy in duplicate herewith.) Under date of May 28, 1902, this Office made a report, estimating that the cost of making allotments on the Uintah Reservation would amount to $12,000.

It should be borne in mind that at the time of the passage of the act of May 27, 1902, the Indians on the Uintah Reservation were not allotted, and only a portion of the land was surveyed.

The act of July 1, 1902 (32 Stat. L., 575), making appropriations to supply deficiencies, etc., for the fiscal year 1902, directed the Secretary of the Interior to cause careful estimates to be made and submitted to Congress at the beginning of its next session, for the survey of certain Indian reservations, including the Uintah.

The act of March 3, 1903 (32 Stat. L., 997), appropriated $175,000 to do the necessary surveying and otherwise carry out the purposes of so much of the act of May 27, 1902, as provides for the allotment of Indians on the Walker River Reservation, in Nevada, and the Uintah and White River Utes, in Utah, and also the Indians of the Spokane Reservation. This act also directed that the Secretary send an inspector and obtain the consent of the Uintahs to an allotment, as directed by the act of May 27, 1902, and, failing to obtain such consent, to cause said Indians to be allotted without their consent. It extended the time for opening the unallotted lands to public entry to October 1, 1904. On April 27, 1903, this Office, in compliance with an informal request, made a report to the Secretary of the Interior (copy herewith) submitting instructions for the guidance of Inspector James McLaughlin in the negotiations he was to make under the provisions of the last-mentioned act.

Under date of July 8, 1903, the Department referred to this Office for early report a communication from the

Acting Commissioner of the General Land Office, dated July 6, 1903, submitting bids for the survey and subdivision of the Uintah Reservation in Utah. Twenty-nine bids were received. Eighteen bidders were recommended by the surveyor-general for contracts. The estimate of the total cost of the work was $94,256. Under date of July 9, 1903, this Office made a report (copy herewith) on the foregoing.

Under date of July 18, 1903, this Office considered the report made by Inspector McLaughlin, and stated the conclusions reached. Copy of this report is inclosed, as is also a copy of Inspector McLaughlin's report. An examination of these papers shows that the consent of the Indians could not be obtained to an allotment. Some suggestions were made by Inspector McLaughlin looking to the protection of the Indians. Under date of August 25, 1903, the Department directed this Office to prepare the necessary correspondence and a draft of the proper legislation to accomplish the objects specified in Inspector McLaughlin's report. Copy of this communication is inclosed. November 23, 1903, the Office reported thereon and submitted an item for inspection in the Indian appropriation bill for the fiscal year 1904. Its object was to set aside certain lands for a timber reserve, to protect sawmill sites, and obtain for the Indians a proper reservation for the purpose of procuring coal. Copies of these papers are inclosed.

August 10, 1903, this Office transmitted to the United States Surveyor-General, Salt Lake City, 26 letters addressed to the Indian agent granting permission for the persons named to enter the Uintah Indian Reservation for the purpose of executing the contracts awarded them for surveys within said reservation, as authorized by the act of March 3, 1903.

January 23, 1904, this Office made a report to the Department (copy herewith) calling attention to the law as it then stood relative to the Uintah Reservation, and

stated that it would seem to be necessary to make allotments to the Indians thereon before October 1, 1904. The act of April 21, 1904, extended the time for the opening of these lands to March 10, 1905, and appropriated $5,000 to enable the Secretary of the Interior to do the necesasry surveying and otherwise carry out the purpose of so much of the act of May 27, 1902, as provided for the allotment of the Indians on the Uintah Reservation and the White River Utes in Utah.

On April 30, 1904, this office recommended that the acting Indian agent be authorized to commence making the allotments, and that such work be completed at the earliest practicable date. Under date of July 1, 1904, the Department authorized the then agent, Capt. William A. Mercer, to proceed with the work of allotting the Uncompahgres who were entitled to allotment on the Uintah Reservation. Authority was granted by the Department November 16, 1904, based upon a report from Capt. C. G. Hall, acting Indian agent, and a recommendation from this office, for him to begin the work of allotting lands to the Indians of the Uintah Reservation, and to employ certain assistants, but this office was directed to inform him that none of these assistants would be employed and no work of allotting done until this office should be advised of the acceptance of the surveys by the Commissioner of the General Land Office.

Under date of January 31, 1905, the Commissioner of the General Land Office advised this office that the township subdivisonal surveys in the Uintah Reservation, which were made necessary by the act of Congress providing for the opening of the reservation for entry, had been completed in the field, and the allotments to the Indians could be undertaken whenever practicable for this office to proceed with the same. He stated that certain corrections of lines and corners on the ground might yet be required of a deputy surveyor to comply with the Manual of Surveys, but it was assumed that the allot-

ments could be effected, without waiting for these corrections, from the triplicate plats of these surveys which had been forwarded by the surveyor-general of Utah. In reply the Commissioner of the General Land Office was informed, under date of February 3, 1905, that it would be practicable to proceed with the allotments as soon as the returns of surveys are received in this office. If it were not practical to furnish the office with the triplicate plats, owing to the corrections that were required, it was requested that photographic copies of said plats, with the triplicate field notes, be provided. The field notes and triplicate copies of the plats required have not made on March 3, 1903.

The foregoing contains all the information in the possession of this office regarding the steps taken to comply with the provisions of the act of May 27, 1902. As to the causes which operated to stay the opening of the reservation, it will be seen that the said act contained no appropriation for making the surveys or allotments; that thirty-four days later Congress (July 1, 1902) directed the Secretary of the Interior to cause estimates of the cost of surveys to be submitted at the beginning of its next session, and that the necessary appropriation was yet been received.

Since that appropriation was made there appears to have been no unnecesasry delay in executing the surveys and preparing for the work of making the allotments.

The resolution of the Senate is returned, and a copy of this report inclosed.

Very respectfully,

F. E. LEUPP,
Commissioner.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
Washington, May 28, 1902.

SIR: As the Indian appropriation act for the fiscal year provides for the opening of the Uintah and Walker River reservations after allotment to the Indians, and for mineral entries on the unalloted lands of the Spokane Reservation, in Washington, I have to request that you furnish me without delay an estimate of the cost of making allotments on these reservations.

The Commisisoner of the General Land Office has this day been requested to furnish an estimate for the surveys.

Very respectfully,

THOS. RYAN,
Acting Secretary.

The COMMISSIONER OF INDIAN AFFAIRS.

DEPARTMENT OF THE INTERIOR,
Washington, May 28, 1902

SIR: The Indian appropriation act for the fiscal year ending June 30, 1903, provides for the allotment of lands on the Uintah Reservation, in Utah, and on the Walker River Reservation, in Nevada. It also provides for mineral entries on the Spokane Reservation, in Washington, on lands not allotted to Indians.

I will thank you to furnish me without delay an estimate of the cost of surveying these reservations for allotment.

Very respectfully,

THOS. RYAN,
Acting Secretary.

The COMMISSIONER OF THE GENERAL LAND OFFICE.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, May 28, 1902.

SIR: This Office is in receipt of your communication dated May 28, 1902, in which you request to be furnished, without delay, an estimate of the cost of making allotments on the Uintah, Walker River, and Spokane reservations.

In reply I have the honor to state that the cost of making the allotments on said reservations is estimated as follows: Walker River, $4,000; Uintah, $12,000; Spokane, $2,000.

Very respectfully, your obedient servant,

A. C. TONNER,
Acting Commissioner.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
Washington, June 6, 1902.

SIR: I have the honor to invite your attention to the following provisions contained in the Indian appropriation act approved May 27, 1902 (Public, No. 125):

"For survey and allotment of—Walker River Reservation, Nevada.

"For survey and allotment of—Uintah Reservation, Utah.

"For survey and allotment of—Spokane Reservation, Wash."

I have caused estimates to be prepared by the Commissioner of the General Land Office of the cost of sur-

veying these reservations, and by the Commissioner of Indian Affairs of the cost of allotting the same, and I have the honor to request that an item be inserted in the general deficiency or some appropriate bill, appropriating funds necessary to carry out the requirements of the aforesaid act, as follows:

For surveys:

Walker River Reservation	$17,500	
Uintah Reservation	128,000	
Spokane Reservation	11,500	
		$157,000

For allotments:

Walker River Reservation	4,000	
Uintah Reservation	12,000	
Spokane Reservation	2,000	
		18,000
Total		175,000

Copies of the estimates referred to are transmitted for your information.

Without funds the Department will be powerless to carry into effect the provisions of the act in question relating to the aforesaid reservations.

Very respectfully,

THOS. RYAN,
Acting Secretary.

The CHAIRMAN OF THE COMMITTEE ON INDIAN AFFAIRS,

United States Senate.

DEPARTMENT OF THE INTERIOR,
Washington, July 18, 1902.

SIR: Your attention is invited to a provision contained in the deficiency act (Public, No. 217), approved July 1, 1902, viz: "The Secretary of the Interior is hereby authorized and directed to cause careful estimates to be made and submitted to Congress at the beginning of its next session for survey of the Walker River Reservation in Nevada, the Uintah Reservation in Utah, and the Spokane Reservation in Washington," with request that instructions be given the proper officers of your Office to prepare the required estimates, so that the same may be furnished to Congress at the beginning of its next session.

Very respectfully,

THOS. RYAN,
Acting Secretary.

The COMMISSIONER OF THE GENERAL LAND OFFICE.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., September 15, 1902.

SIR: Referring to departmental letter of July 18, 1902, inviting the attention of this Office to a provision contained in the deficiency act (Public, No. 217), approved July 1, 1902, authorizing the Secretary of the Interior to cause careful estimates to be made and submitted to Congress of the cost of surveying the "Walker River Reservation" in Nevada; the "Uintah Reservation" in Utah, and the "Spokane Reservation" in Washington, and requesting this Office to instruct the proper surveyors-general to prepare the required estimates, to the end that the same may be duly submitted at the ensuing

session of Congress, I have the honor to report that by office letters "E" of July 26, 1902, the United States surveyors-general of Nevada, Utah, and Washington were requested to furnish the desired estimates in compliance with departmental directions.

With his letter of August 7, 1902, the United States surveyor-general for Nevada submitted his estimate of the cost of surveying and subdividing the Walker River Indian Reservation, aggregating $7,791.26 for field work, and $3,327.50 for examination in the field and office work, making a total of $11,118.75.

Under date of August 6, 1902, the United States surveyor-general for Washington submitted his estimate of the cost of surveying and subdividing the Spokane Indian Reservation, in which the cost of the field work is given at $13,320, and the examination of the work and office work at $3,680, making a total cost of $17,000.

No estimate has as yet been received from the United States surveyor-general for Utah of the cost of surveying and subdividing the Uintah Indian Reservation.

Inclosed herewith are copies of the estimates as submitted by the United States surveyors-general for Nevada and Washington.

Accompanying the estimate of the United States surveyor-general for Nevada is a blueprint diagram showing the extent of the Walker River Indian Reservation and the lines necessary to be run to complete the survey of the area into townships and the subdivision of the townships into sections.

It is requested that said diagram may be returned to this office when the information embraced therein shall have been utilized.

The United States surveyor-general for Utah has again been requested to furnish the estimate relating to the Uintah Indian Reservation.

Very respectfully,

W. A. RICHARDS,
Acting Commissioner.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., September 26, 1902.

SIR: Referring to departmental letter of July 18, 1902, requesting this office to secure from the proper officers estimates of the cost of surveying and subdividing the Uintah Indian Reservation in Utah, the Walker Indian Reservation in Nevada, and the Spokane Indian Reservation in Washington; also to office letter "E" of September 15, 1902, submitting the desired estimates relating to the Walker River and Spokane Indian Reservation in Nevada and Washington, I have the honor to submit herewith a copy of the letter dated September 18, 1902, of the United States surveyor-general for the State of Utah, embodying his estimate of the cost of surveying and subdividing the Uintah Indian Reservation in Utah.

The surveyor-general's estimates are as follows: Cost of field work, $87,420; cost of resurveys, $6,836; cost of office work, $9,500; cost of field examination, $5,000; total estimated cost of the work, $108,756.

The surveyor-general also submits a sketch plat of the Uintah Indian Reservation showing in distinct colors the township lines to be surveyed, the lines of the public surveys heretofore established, and the lines of surveys be-

lieved necessary to be reestablished. Said diagram is herewith inclosed for the information of the Department.

Very respectfully,

BINGER HERMANN,
Commissioner.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
Washington, December 4, 1902.

SIR: In compliance with a provision contained in the deficiency act approved July 1, 1902 (Public, No. 217), I have caused careful estimates to be made for the survey of the Walker River Reservation, in Nevada, the Uintah Reservation, in Utah, and the Spokane Reservation, in Washington, and the same are herewith transmitted, together with copies of reports of the Commissioner of the General Land Office of September 15 and 26, 1902.

Very respectfully,

E. A. HITCHCOCK,
Secretary.

The PRESIDENT PRO TEMPORE OF THE UNITED STATES SENATE.

DEPARTMENT OF THE INTERIOR,
Washington, April 13, 1903.

SIR: In accordance with your recommendation of the 10th instant, authority is hereby granted for the publication of an advertisement inviting proposals for executing the survey of the exterior boundaries and subdivisions of the Uintah Indian Reservation, Utah, as follows:

Salt Lake Tribune, 6 times, every alternate day, prior to the date fixed for opening the bids.

Wyoming Press, Evanston, Wyo., 2 times, prior to the date fixed for opening the bids.

Vernal Express, Vernal, Utah, 2 times, prior to the date fixed for opening the bids.

The inclosures to your letter are herewith returned.

Very respectfully,

E. A. HITCHCOCK,
Secretary.

The COMMISSIONER OF THE GENERAL LAND OFFICE.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, April 27, 1903.

SIR: In compliance with your informal request I have the honor to submit herewith letter of instructions to Inspector James McLaughlin to negotiate with the Uintah and White River Utes with a view to obtaining their consent to the allotment of their lands as provided in the act of March 3, 1903 (Public, No. 144), and previous legislation therein referred to.

Very respectfully,

A. C. TONNER,
Acting Commissioner.

THE SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, April 27, 1903.

SIR: A paragraph in the Indian appropriation act approved March 3, 1903 (Public, No. 144), provides as follows:

"That the Secretary of the Interior shall forthwith send an inspector to obtain the consent of the Uintah and White River Ute Indians to an allotment of their lands as directed by the act of May twenty-seventh, nineteen hundred and two, and if their consent, as therein provided, can not be obtained by June first, nineteen hundred and three, then the Secretary of the Interior shall cause to be allotted to each of said Uintah and White River Ute Indians the quantity and character of land named and described in said act: *And provided further,* that the grazing lands to be set apart for the use of the Uintah, White River Utes, and other Indians, as provided by public resolution numbered thirty-one, of June nineteenth, nineteen hundred and two, be confined to the lands south of the Strawberry River on said Uintah Reservation, and shall not exceed two hundred and fifty thousand acres: *And provided further,* That the time for opening the unallotted lands to public entry on said Uintah Reservation, as provided by the act of May twenty-seventh, nineteen hundred and two, be, and the same is hereby, extended to October first, nineteen hundred and four."

The act of May 27, 1902, to which reference is made in the act of March 3, 1903, above quoted, provides as follows:

"That the Secretary of the Interior, with the consent thereto of the majority of the adult male Indians of the Uintah and White River tribes of Ute Indians, to be ascertained as soon as practicable by an inspector, shall cause to be allotted to each head of a family eighty acres of agricultural land which can be irrigated, and forty acres of such land to each other member of said tribes, said allotments to be made prior to October first, nineteen hundred and three, on which date all the unallotted lands within said reservation shall be restored to the public domain: *Provided,* That persons entering any of said land under the homestead law shall pay therefor at the rate of one dollar and twenty-five cents per acre; * * *

and the proceeds of the sale of the lands so restored to the public domain shall be applied, first, to the reimbursement of the United States for any moneys advanced to said Indians to carry into effect the foregoing provisions; and the remainder, under the direction of the Secretary of the Interior, shall be used for the benefit of said Indians. And the sum of seventy thousand and sixty-four dollars and forty-eight cents is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, to be paid to the Uintah and the White River tribes of Ute Indians, under the direction of the Secretary of the Interior, whenever a majority of the adult male Indians of said tribe shall have consented to the allotment of lands and the restoration of the unallotted lands within said reservation as herein provided.

"Said item of seventy-four thousand and sixty-four dollars and forty-eight cents, to be paid to the Uintah and White River Utes, covers claims which these Indians have made on account of the allotment of lands on the Uintah Reservation to Uncompahgre Indians, and for which the Government has received from said Uncompahgre Indians money aggregating sixty thousand and sixty-four dollars and forty-eight cents; and the remaining ten thousand dollars claimed by the Indians under an act of Congress detaching a small part of the reservation on the east and under which act the proceeds of the sale of the lands were to be applied for the benefit of the Indians."

Public resolution No. 31, contained the following provisions:

"In addition to the allotments in severalty to the Uintah and White River Utes of the Uintah Indian Reservation in the State of Utah, the Secretary of the Interior shall, before any of said lands are opened to disposition under any public land law, select and set apart for the use in common of the Indians of that reservation such an amount of nonirragable grazing lands therein at one or more

places as will subserve the reasonable requirements of said Indians for the grazing of livestock.

"All allotments hereafter made to Uncompahgre Indians of lands in said Uintah Indian Reservation shall be confined to agricultural lands which can be irrigated, and shall be on the basis of eighty acres to each head of a family, and forty acres to each other Indian and no more. The grazing land to be selected and set apart as aforesaid in the Uintah Indian Reservation for the use in common of the Indians of that reservation shall be equally open to the use of all Uncompahgre Indians receiving allotments in said reservation of the reduced area here named."

From the foregoing you will see that the Uintahs, White River Utes, and Uncompahgre not heretofore allotted are to be allotted 80 acres to each head of a family, and 40 acres to each other person, of irrigable land; that if the Uintah and White River Utes do not consent to the allotments by the first of June next the allotments are to be made notwithstanding, and the unallotted lands, except not exceeding 250,000 acres of grazing land south of the Strawberry River, are to be opened to entry on the first of October, 1904.

Also that the payment of $70,064.48 to the Uintah and White River Utes is conditioned upon the consent of these Indians to the allotment of their lands and the restoration to the public domain of the unalloted lands (except those reserved for grazing).

Upon receipt thereof you are instructed to proceed to the Uintah, etc., Agency and Reservation, call a council of the Uintah and White River Utes, or a separate council of each tribe if you find that course more expedient, lay before them the provisions of the law as hereinbefore recited, and endeavor to obtain their consent to the allotment of lands as provided in the law, and to the restoration of the surplus lands.

Their consent should be expressed in writing and signed by as many of the male adults as are willing to give their consent, the signatures of a majority being necessary to make the consent effective.

The signatures should be attested in the usual manner.

Very respectfully,

A. C. TONNER,
Acting Commissioner.

JAMES MCLAUGHLIN, Esq.,
United States Indian Inspector.

DEPARTMENT OF THE INTERIOR,
Washington, April 29, 1903.

SIR: I have approved and return herewith the draft of instructions prepared in your office for the guidance of United States Indian Inspector James McLaughlin in negotiating with the Uintah and White River Utes in Utah, with a view to obtaining their consent to the allotment of their lands as provided in the act of March 3, 1903 (Public, No. 144), and previous legislation therein referred to, which accompanied your letter of the 27th instant.

You will advise the inspector that he should make full stenographic report of the councils, and that he is authorized to employ a stenographer and typewriter for this purpose and in the preparation of his final report.

These instructions should be forwarded to Mr. McLaughlin at the Uintah, etc., Agency, Utah.

Very respectfully,

THOS. RYAN,
Acting Secretary.

The COMMISSIONER OF INDIAN AFFAIRS.

* * * *

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, July 9, 1903.

SIR: This office is in receipt by Department reference for early report of a communication from the Acting Commissioner of the General Land Office, dated July 6, 1903, in which he submits bids for the survey and subdivison of the Uintah Indian Reservation in Utah, concurs in the recommendation of the surveyor-general, and requests authority to allow rates of mileage named in the recommended awards.

The Acting Commissioner states that the surveyor-general reports that 29 bids were received.

Eighteen bidders, being the lowest bidders and believed by the surveyor-general to be competent and reliable, are recommended by him to whom contracts should be awarded.

The total cost of the work under the 18 bids is estimated at $94,256.

The Acting Commissioner requests authority to instruct the surveyor-general to award the contracts as recommended and to allow the several deputies the rates of mileage stipulated in their respective bids, all of said rates being subject to statutory restrictions.

This office sees no objection to granting the request of the Acting Commissioner of the General Land Office.

The inclosures to the Acting Commissioner's letter did not accompany your reference.

Very respectfully,

W. A. JONES,
Commissioner.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, July 18, 1903.

SIR: The Office is in receipt, by Department reference, for consideration and report, of a communication from Indian Inspector James McLaughlin dated May 30, 1903, reporting the result of his negotiations with the Uintah and White River Utes of the Uintah Reservation, Utah, relative to the opening of their reservation.

The inspector reports that of the 159 Uintah and 121 White River male adults belonging to the Uintah Reservation, a total of 280 male adults, only 75 of the Uintahs and 7 of the White Rivers, a total of 82 male adults, could be induced to sign the paper prepared by him, giving their assent to the provisions of the acts opening their unallotted lands to settlement.

He states that while the signatures of a majority of the male adults of the reservation were not obtained, he feels that he accomplished all that could reasonably be expected, considering the attitude of the Indians in reference to the matter when he reached the agency, they being then unanimously opposed to the opening of their reservation under the provisions of the act, but through clear explanations of the law and painstaking arguments he succeeded in bringing them to understand that the reservation is going to be opened as provided in the act; that its survey will soon be commenced and when completed allotments will be made to them, after which the residue will be opened to settlement, except the tract of 250,000 acres situated south of Strawberry River, which is to be reserved for their common use for grazing purposes.

He states that they held out strenuously against accepting this statement as a fact, but were finally brought to understand it fully and clearly, and now accept it, at least passively, with as good grace as is reasonable to expect; also that those of the Indians who signed the acceptance did so to show their good will, and many oth-

ers would doubtless have signed had there been anything to be gained by their doing so.

He expresses the opinion, judging from the courteous manner in which the Indians treated him and the confidence they have in Captain Mercer, that they will all acquiesce gracefully and meet the wishes of the Department in the premises.

He suggests, and strongly recommends, that a timber reserve of at least 1 township (6 miles square) be set apart, from which these Indians may obtain building material, the tract suggested to embrace the agency sawmill, a township of the dwarf cedar tract, near the agency, to supply them with fence posts and wood fuel, and a tract of 160 acres of land embracing a certain vein of coal situated in Farm Creek, about 8 miles north by northwest of Uintah Agency headquarters at White Rock, for use of the Indians to provide them with fuel.

Regarding the necessities of this reservation, he states that the agency sawmill, including planer, shingle, and lathe machinery, is practically new, in first-class condition, and of great benefit to the reservation at the present time in providing necessary building material, which is very much needed by both agency and Indians; that the Indians are to be allotted irrigable lands only, which lands contain little or no timber; that the bench lands, nearly all of which can be irrigated, are the most desirable lands for farming purposes on the reservation, but are entirely devoid of timber, and it is therefore necessary that the Indian allottees have a timber reserve from which they can obtain building material, fence posts, and fuel, this timber reserve to be held in common, or equally apportioned among the allottees; that there is an abundant supply of good pine and cedar timber in the mountains adjacent to the Uintah Agency, from which the Indians now obtain their building material and fuel, but under the provisions of the act opening the reservation they will be deprived of all timber except what may be found

to be within the tract of land to be reserved for grazing purposes south of the Strawberry River, which he states, from personal knowledge, contains very little timber, except in the extreme southeast corner, 70 miles from where the principal settlements of the Indians are now located, and where the greater portion of the allotments will doubtless be made, and that the contract price of wood at the military post of Fort Dushane, 14 miles from the Uintah Agency, being $8.50 per cord, and native coal $6.80 per ton, shows the importance of the Indians being provided with means of obtaining their fuel without being obliged to buy it.

The act of May 27, 1902 (32 Stat. L., 245), provides that all the unallotted lands within the Uintah Reservation shall be restored to the public domain on October 1, 1903. By the act of March 3, 1903 (32 Stat. L., 982), the date of opening is postponed until October 1, 1904. In the opinion of this office the President has ample authority to reserve the three tracts suggested from the lands which will become part of the public domain on that date, and such action will be recommended as soon as the surveys have been extended so that the proposed reserves can be properly described, unless you are of the opinion that the President is not authorized to take such action. Should you be of such opinion, it is recommended that Congress be asked to enact the necessary leigslation to authorize it, but, as above indicated, I do not think this will be necessary.

The matter of making allotments to these Indians will be considered in a separate report.

Very respectfully,

W. A. JONES,
Commissioner.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., August 4, 1903.

SIR: Inclosed herewith is a copy of a letter dated Salt Lake City, Utah, July 28, 1903, signed by the United States surveyor-general, requesting that permission be obtained from your office to allow the designated United States deputy surveyors to enter the Uintah Indian Reservation for the purpose of executing awarded contracts for surveys within said reservation, as authorized under the act of Congress approved March 3, 1903.

The surveyor-general requests that the permits be sent to his office, to be handed to the designated deputies.

Concurring in the request of the United States surveyor-general for Utah, I have to suggest that the desired permits be sent by your office direct to that officer, and this office advised to that effect.

J. H. FIMPLE,
Acting Commissioner.

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

DEPARTMENT OF THE INTERIOR,
OFFICE OF U.S. SURVEYOR-GENERAL,
DISTRICT OF UTAH,
Salt Lake City, Utah, July 28, 1903.

SIR: I have the honor to request that permission to enter the Uintah Indian Reservation to make surveys be obtained from the Indian Department for each of the the following United States deputy surveyors, who have entered into contract to do surveying on the Uintah Indian Reservation, under act of Congress, approved March 3, 1903: James M. Lents, Hubert D. Page, Byron S. Kershaw, George C. Swan, William S. Musser, John R. Stewart, Andrew J. Stewart, jr., Scott P. Stewart, Alfred

L. Booth, Clarence S. Jarvis, James H. Martineau, Harvey D. Heist, William Dallas, Herman E. Freudenthal, James C. Dick, Austin K. Tiernan, James F. Trotter, Francis M. Lyman, jr., H. B. Maxson, Fred Johnson, John W. McKim, R. E. L. Collier, Harry Rager, Arthur H. Brown, Fred M. Brown.

Please send the permits to this office, that I may hand them to the deputies.

Very respectfully,

EDWARD H. ANDERSON,
United States Surveyor-General for Utah.

The COMMISSIONER OF THE GENERAL LAND OFFICE,
Washington, D. C.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, August 10, 1903.

SIR: In compliance with your request of July 28, 1903, received through the Commissioner of the General Land Office, I transmit herewith 26 letters addressed to Capt. W. A. Mercer, United States Indian agent, granting permission for the persons mentioned in your said letter to enter the Uintah Indian Reservation for the purpose of executing the contracts awarded them for surveys within said reservation, as authorized by the act of March 3, 1903.

Very respectfully,

A. C. TONNER,
Acting Commissioner.

The UNITED STATES SURVEYOR-GENERAL,
Salt Lake City, Utah.

* * * *

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, November 23, 1903.

SIR: Under date of August 25, 1903, your returned to this Office the report of Inspector James McLaughlin of his negotiations with the Uintah and White River Utes of Utah, relative to the opening of the Uintah Reservation as provided by the acts of May 27, 1902 (32 Stat. L., 245), and March 3, 1903 (32 Stat. L., 982), and directed the preparation of the necessary correspondence relative to the setting apart of one township as a timber reserve to embrace the agency sawmill, one township of the dwarf-cedar tract to supply the Indians with fence posts and wood fuel, and 160 acres located on Farm Creek as a coal reserve.

Under date of September 9, 1903, Acting Agent Mercer made report upon a communication from Hon. George Sutherland, of Salt Lake City, in regard to the character of the land allotted the Uncompahgres on the former Uncompahgre Reservation. Captain Mercer expressed the opinion that these Indians should be given allotments on the Uintah Reservation, and stated that there is land enough to allot them in addition to the Uintah and White Rivers.

There were 83 Indians allotted on the Uncompaghre Reservation, and to allot these 83 on the Uintah Reservation would require not to exceed 5,000 acres.

Congress can undoubtedly authorize you to cancel these allotments, patents not having issued, and I am of the opinion that this authority should be granted.

I have accordingly prepared the draft of an item authorizing the setting apart of the three reserves mentioned, and containing a proviso authorizing the Secretary of the Interior, in his discretion, to cancel any allotment made in the former Uncompahgre Reservation, and to allot to the Indian whose allotment may be canceled lands in the

Uintah Reservation in quantity as provided in public resolution No. 31, approved June 19, 1902 (80 acres to head of family and 40 acres to each other person), and have the honor to recommend that the same be transmitted to the Senate Committee on Appropriations and the House Committee on Indian Affairs, with the request that it be inserted in the Indian appropriation bill.

I also transmit duplicate copies of Inspector McLaughlin's report; office report of July 18, 1903; your letter of August 25, 1903; Mr. Sutherland's letter of June 13, 1903, and Captain Mercer's report of September 9, 1903, and inclosures.

Very respectfully,

W. A. JONES,
Commissioner.

The SECRETARY OF THE INTERIOR.

Paragraph for insertion in Indian appropriation bill

That in addition to the allotments in severalty to the Uintah and White River Utes of the Uintah Indian Reservation in Utah and to the grazing lands to be selected and set apart for the use in common of said Indians and of the Uncompahgre Indians, the Secretary of the Interior shall, before any of the lands of said reservation are opened to disposition under any public law, select and set apart for the use in common of the Indians of that reservation, including all Uncompahgre Indians receiving allotments in said reservation of the reduced area provided by public resolution numbered thirty-one, of June nineteenth, nineteen hundred and two, one tract not exceeding one township in extent as a timber reserve, said trace to embrace the agency sawmill, one tract not exceeding one township in extent, containing dwarf cedar for fuel and fence posts, and a tract of one hundred and sixty acres, embracing a vein of coal, situated in Farm Creek: *Provided,* That the Secretary of the Interior may, in his discretion, cancel the allotment made to any Un-

compahgre Indian within the former Uncompahgre Reservation and for which a trust or other patent has not issued, and in lieu thereof allot such Uncompahgre Indian in the Uintah Reservation in quantity as provided in said public resolution numbered thirty-one.

DEPARTMENT OF THE INTERIOR,
Washington, November 30, 1903.

SIR: I have the honor to transmit herewith copy of a report of the 23d instant from the Commissioner of Indian Affairs and accompanying paragraph for insertion in the bill making appropriations for the Indian Service for the fiscal year ending June 30, 1905, together with copies of correspondence in relation thereto.

This paragraph relates to the Uintah Reservation in Utah, and provides that before any of the lands are open to disposition under any public-land law that the Secretary of the Interior shall select and set apart for the use in common of the Indians of that reservation, including all Uncompahgre Indians receiving allotments in said reservation of the quantity of lands as provided by public resolution No. 31 of June 19, 1902, 1 tract not exceeding 1 township in extent as a timber reserve, said tract to embrace the agency sawmill; 1 tract, not exeeding 1 township in extent, containing dwarf cedar for fuel and fence posts, and a tract of 160 acres embracing a vein of coal situated on Farm Creek; and it further provides that the Secretary, in his discretion, cancel the allotment made to any Uncompahgre Indian within the former Uncompahgre Reservation for which a trust or other patent has not issued, and in lieu thereof allot such Uncompahgre Indians in the Uintah Reservation in quantity as provided in said public resolution No. 31.

This matter has been considered by the Department, and I have the honor to recommend that it receive favorable action by the Congress.

Very respectfully,

E. A. HITCHCOCK,
Secretary.

THE PRESIDENT PRO TEMPORE OF THE UNITED STATES SENATE.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, January 23, 1904.

SIR: The act of March 3, 1903 (32 Stat. L., 982), provides that the Secretary of the Interior shall cause to be allotted to each of the Uintah and White River Indians the quantity and character of the land mentioned and described in the act of May 27, 1903 (32 Stat. L., 245), and it also extended the time of opening the unallotted lands to public entry until October 1, 1904.

Under existing laws, all unallotted lands of the Uintah reservation, except those reserved for grazing purposes, are to be opened for public entry on October 1 next. It would therefore seem to be necessary to make allotments to said Indians before the time mentioned.

Your attention is invited to this matter that you may give such directions as you may deem proper.

Very respectfully,

W. A. JONES,
Commissioner.

THE SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
Washington, February 3, 1904.

SIR: The Department desires to be advised as to the present status of the work of surveying the lands of the Uintah Reservation, Utah, and the probable time necessary to complete the same.

The provisions of the acts of May 27, 1902, and March 3, 1903, contemplated the opening to public entry of the unallotted lands in said reservation on October 1, 1904, on the assumption that the lands would be surveyed in time to permit allotments to be made to the Indians prior to that time. The Department desires to bring to the attention of Congress the necessity for the extension of the time for opening said reservation, unless your office is satisfied that surveys will be completed in ample time for allotments to be made before the date fixed by the Act of Congress, October 1, 1904.

Yours very truly,

E. A. HITCHCOCK,
Secretary.

THE COMMISSIONER OF THE GENERAL LAND OFFICE.

DEPARTMENT OF THE INTERIOR,
Washington, February 6, 1904.

SIR: Referring to the following provision contained in the Indian appropriation act approved March 3, 1903—

"That the time for opening the unallotted lands to public entry on said Uintah Reservation, as provided by the act of May twenty-seventh, nineteenth hundred and two, be, and the same is hereby extended to October first, nineteen hundred and four"—

I have the honor to transmit herewith a copy of a report of the 4th instant from the Commissioner of the General Land Office stating that it will require the whole of the next surveying season to complete the survey of this reservation.

After the completion of these surveys, some 1,600 allotments are to be made; this will require at least three or four months, or probably longer, as the act of May 27, 1902, provides that the allotments shall be agricultural land which can be irrigated, and if the whole of the next

surveying season is required to complete the survey the allotments can not be made by the 1st of October, 1904. I have, therefore, the honor to request that the date for said opening be extended for one year from October 1, 1904.

Very respectfully,

E. A. HITCHCOCK,
Secretary.

THE CHAIRMAN OF THE COMMITTEE ON INDIAN AFFAIRS,
United States Senate.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, April 30, 1904.

SIR: Referring to Office letter of January 23, 1904, inviting attention to the requirements of the law in regard to allotments to the Uintah and White River Indians on the Uintah Reservation, you are advised that this Office is in receipt of a communication from Acting Agent Mercer, dated April 20, 1904, in which he states that inasmuch as the date of the opening of the Uintah Reservation appears to be fixed for March 1, 1905, and that it will probably some months before the surveyed plats are ready for use in connection with the proposed allotting of Uintah and White River bands which, by the provisions of the act providing for the opening of the reservation, must precede such opening, if he deems it advisable to invite attention to the condition of the Uncompahgre band of Ute of his agency, and states that if it is the intention to provide allotments for them, it will be necessary to take up that work at once. He states the conditions, asks for information, and offers a suggestion as to the manner of getting that work done before they are obliged to take up the task of alloting the Uintah and White Rivers.

Agent Mercer is slightly in error as to the date fixed for the opening of the surplus lands, as the act of April 21, 1904 (Public, No. 125) extends said time to March 10, 1905. Said act also provides the sum of $5,000 to enable the Secretary of the Interior to do the necessary surveying and otherwise carry out the purpose of so much of the act of May 27, 1902, as provides for the allotment of the Indians of the Uintah and White River Ute in Utah.

Regarding the Uncompahgre, Agent Mercer states that the allotment rolls show that 380 Uncompahgre Indians have been allotted; that 283 allotments were made on the Uintah Reservation; 101 on the Uncompahgre (four of these having been partly allotted on both reservations); that a corrected census of the Uncompahgre, which he is now at work upon and will shortly submit, will show the total number of Uncompahgre to be only about 540; and that all of the Uncompahgre allotted on the Uintah Reservation have good land, that is, land that can be irrigated and will then prove productive; that many of these allottees are now improving their lands and all will soon do so, while of those allotted on the Uncompahgre Reservation but few are engaged in agriculture; that practically all of the lands are useless until irrigated, and no provision has yet been made to that end, while some are utterly worthless, having been allotted on ground that can not be irrigated and so remote from the agency that the allottees are never seen and no help can be given them; and that these few and those who have not been allotted roam at will over a vast extent of "bad land" territory, like the deer or coyote, totally without the reach of civilizing influences.

He further states that the Uncompahgres are away behind the Uintahs and even the White Rivers in the practice of civilized methods, but as a body they are possessed of many good traits of character that in his opinion should be encouraged and utilized to their improvement, and which under equal opportunities will place them in advance of the other Utes.

He refers to joint resolution of June 19, 1902 (32 Stat. L., 742), and asks if it is intended that hereafter all allotments to Uncompahgre Indians shall be made on the Uintah Reservation, and if the Uncompahgres must wait until the Uintahs and White Rivers have selected lands before they can select, or have selected for them, lands for allotment on the Uintah Reservation.

He states that the following things should be done at once for the Uncompahgres:

(*a*) The allotments on the Uncompahgre Reservation should be examined by a competent person, one who is at once a farmer and understands irrigation and has local knowledge of what constitutes good agricultural lands, to the end that all allotments not suitable can be reported for annulment.

(*b*) All Indians who have been allotted on unsuitable lands on the Uncompahgre Reservation should have their allotments canceled and allotted suitable lands on the Uintah Reservation.

(*c*) All who have had no allotments should have lands selected for them on the Uintah Reservation, and allotments made as soon as possible.

(*d*) Surveys and other work necessary to provide irrigation ditches for the allotments that are to be retained on the Uncompahgre Reservation should be made and arranged for at once. This can be easily and cheaply accomplished and is absolutely necessary before the Indians can cultivate the lands.

(*e*) I have had a family register prepared and the rolls carefully corrected and these should be used in connection with allotments to the Uncompahgres, as the old rolls are very defective.

He recommends that the adjustment of the allotments of the Uncompahgres, all new allotments to be made them, and all allotments for the Uintahs and White Rivers be made under the direction and general supervision of the agent, and that he be authorized to personally select and employ at once, to carry out the work for the Uncompahgres as outlined above, a suitable man to be known as the field allotting agent, to take immediate charge of the field work under the direction of the agent, at a salary of $150 per month and not to exceed $2 per day for subsistence; also that the agent be authorized to employ a surveyor at $100 per month and not to exceed $1.50 per day for subsistence, a field cook at $40 per month, and Indian assistants not to exceed three in number, one of whom shall be a teamster and with the others act as general assistants to the surveyor, etc., at $40 per month each, the cook and Indians not to exceed $1 per day each for subsistence.

He believes that all necessary transportation, forage, tentage, camp equipage, and cooking utensils can be supplied by the agency and the necessary clerical work performed by the present irregular labor allowed for family register and allotting work, the position to be continued under the present incumbent until all allotting work is completed. He states that the work should commence for the Uncompahgre at once, and for the Uintah and White Rivers just as soon as the plats or field notes for the irrigable lands can be supplied. He believes that all the surveys have been completed on the lands suitable for allotments, as these lands are the open, practically level, low, or table-lands.

The joint resolution of June 19, 1902, referred to by Agent Mercer provides that "All allotments hereafter made to Uncompahgre Indians of lands in said Uintah Reservation shall be confined to agricultural lands which can be irrigated, and shall be on the basis of eighty acres to each head of a family and forty acres to each other Indian, and no more."

This would seem to contain sufficient authority for making allotments to the Uncompahgres on the Uintah Reservation. Eighty-three allotments on the Uncompahgre Reservation were approved by the Secretary of the Interior under the act of March 1, 1899, (30 Stat. L., 924). If the joint resolution contains sufficient authority it is believed that these eighty-three allottees on the Uncompahgre Reservation should be induced, if possible, to relinquish their allotments there and take allotments on the Uintah Reservation.

As stated by Agent Mercer no irrigation has been provided for these allotments, and this office knows of no law under which irrigation can now be provided for them. Much of the land allotted is known to be incapable of irrigation and therefore practically worthless.

It is believed that the plan suggested by Agent Mercer for the allotment of the lands in the Uintah Reservation is not only the most practicable and economical, but also the only one under which the allotments can be completed before the 10th of March next. There remains only about six months in which allotment work can be prosecuted in the field on the Uintah Reservation, and it is believed that operations should commence at once.

It is accordingly recommended that the agent in charge of the Uintah Reservation in Utah be authorized to employ a field allotting agent at a salary of $150 per month and not exceeding $2 per day for subsistence; a surveyor at $100 per month and not exceeding $1.50 per day for subsistence; a field cook, and not exceeding three Indian assistants, one of whom shall be a teamster, at $40 per month each and not exceeding $1 per day for subsistence; and that he be at once authorized to proceed with the work of allotting the Uncompahgres, Uintahs, and White River Utes, in accordance with the recommendations contained in his said letter of April 20, 1904, which is herewith transmitted, said amounts to be paid from the appropriation of $5,000 made by the act of April 21, 1904.

It is believed that the surveyor can obtain the necessary data from the deputy surveyors who made the survey or from the surveyor-general's office.

Very respectfully,

A. C. TONNER,
Acting Commissioner.

THE SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
Washington, June 17, 1904.

SIR: Referring to your office report of the 4th of February last relative to surveys on the Uintah Indian Reservation, in Utah, I have to request that you inform me as early as practicable of the actual present condition of the survey work on the reservation, together with any detailed information as to the progress of the same that may be available.

Very respectfully,

E. A. HITCHCOCK,
Secretary.

THE COMMISSIONER OF THE GENERAL LAND OFFICE.

DEPARTMENT OF THE INTERIOR,
Washington, July 1, 1904.

SIR: In partial compliance with your recommendations of April 30 last, in the matter of allotments to Indians of the Uintah Reservation, Utah, as required by law, authority is hereby granted the agent in charge of the Uintah Reservation, Utah, to employ a field allotting agent at a salary of $150 per month and not exceeding $2 per day for subsistence; a surveyor at $100 per month and not exceeding $1.50 per day for subsistence; a field cook and not exceeding three Indian assistants, one of whom shall be a teamster at $40 per month each and not

to exceed $1 per day for subsistence; and he is at once authorized to proceed with the work of alloting the Uncompahgre Indians, or such of them as may desire to change their present allotments, under instructions from your office.

Only such of the above-named employees as are required for this service will be employed at this time, and their services should not be continued for a longer time than necessary.

Further instructions will hereafter be given in regard to alloting the Uintahs and White Rivers.

Very respectfully,

E. A. HITCHCOCK,
Secretary.

THE COMMISSIONER OF INDIAN AFFAIRS.

DEPARTMENT OF THE INTERIOR,
UNITED STATES INDIAN SERVICE,
UINTAH AND OURAY AGENCY,
Whiterocks, Utah, October 17, 1904.

SIR: I have the honor to recommend that I be authorized to begin the work of allotting lands to the Indians of this (Uintah) reservation. It is desired to do much of this work before the worst of the winter sets in and to be ready with the allotments before the reservation is opened. It is believed that this can be accomplished in time, and to this end I believe that the work of allotting can be done by me personally, without the assistance of an allotting agent. Of course it would be necessary to have a competent surveyor's party in the field, and to this end it is requested that authority be granted to employ for the work one surveyor at $100 per month, with an allowance of $1.50 per day for expenses; one field cook at $40 per month, with an allowance of $1 per day for expenses; three field assistants at $40 per month, with an allowance of $1 per day each for expenses.

The three field assistants to be Indians if such can be obtained; otherwise white men. The surveyor and the cook to be white men.

Very respectfully,

C. G. HALL,
Captain, Fifth Cavalry, Acting Indian Agent.

THE COMMISSIONER OF INDIAN AFFAIRS,
Washington, D.C.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, November 7, 1904.

SIR: Under date of July 1, 1904, you granted authority for the agent in charge of the Uintah Reservation, Utah, to employ certain assistants and to proceed at once with the work of allotting the Uncompahgre Indians, or such of them as might desire, to change their allotments under instructions from this Office. You added that further instructions would thereafter be given in regard to allotting the Uintahs and White Rivers.

This Office is now in receipt of a communication from Capt. C. G. Hall, acting Indian agent, dated October 17, 1904, in which he asks authority to begin the work of allotting lands to the Indians of the Uintah Reservation. He states that it is desired to do as much of the work as possible before the worst of the winter sets in, and to be ready with the allotments before the reservation is opened. He belives that this can be accomplished in time, and to this end believes that the work of alloting can be done by him personally, without the assistance of any alloting agent. He states that it will be necessary to have a competent surveying party in the field, and to this end requests that authority be granted to employ for the work one surveyor, at $100 per month, with an allowance of $1.50 per day for expenses; one field cook, at $40 per month, with an allowance of $1 per day for expenses; and

three field assistants, at $40 per month, with an allowance of $1 per day for expenses, the field assistants to be Indians, if such can be obtained.

In a separate communication of the same date Captain Hall asked that plats of the recent survey of the Uintah Reservation be furnished him to enable the allotting party to begin work at an early date. From informal inquiry at the General Land Office it is learned that none of the recent surveys on the Uintah Reservation have been accepted. It is therefore impossible to comply with this request, and Captain Hall has been so advised.

According to existing law the surplus unallotted lands of the Uintah Reservation are to be restored to the public domain on the 10th of March next, only four months from the present date. If there is to be any attempt to comply with the law it would seem to be necessary to commence the work of allotting the Uintahs and White Rivers at the earliest possible date.

Captain Hall's letter is submitted for such action as the Department will deem proper.

Very respectfully,

A. C. TONNER,
Acting Commissioner.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
Washington, November 16, 1904.

SIR: I acknowledge the receipt of your report of 7th instant and accompanying letter from Capt. C. G. Hall, acting Indian agent, Uintah Agency, Utah, in which he asks authority to begin the work of alloting lands to the Indians of the Uintah Reservation, and to that end asks to employ one surveyor at $100 per month, with an allowance of $1.50 per day for expenses, one field cook at $40 per month, with an allowance of $1 per day for expenses,

and three field assistants at $40 per month, with an allowance of $1 per day each for expenses.

Acting Agent Hall's request is granted, but you will inform him that none of these persons will be employed and no work of allotting be done until he is advised by your office of the acceptance of the surveys on the Uintah Reservation by the Commissioner of the General Land Office.

Captain Hall's letter is herewith returned.

Very respectfully,

E. A. HITCHCOCK,
Secretary.

The COMMISSIONER OF INDIAN AFFAIRS.

DEPARTMENT OF THE INTERIOR,
Washington, December 10, 1904.

SIR: I have the honor to transmit herewith, for the information of your committee, a copy of a communication addressed by me to the President, under date of November 25, 1904, giving a brief statement regarding the lands of the Uintah Indian Reservation in Utah, and the present status of the same.

As you will observe, the Department on February 6, 1904, in view of a report from the Commissioner of the General Land Office as to the probable time required to complete the surveys on this reservation, requested Congress to further extend the time for the opening of the same to public settlement for one year from October 1, 1904. The time, however, was extended by the Congress only until March 10, 1905, as per provision in the Indian appropriation act approved April 21, 1904, and $5,000 was appropriated to enable the Secretary of the Interior to have completed the surveying and allotting as required by the act of May 27, 1902.

The field work on these surveys is reported to be complete, but the office work on the field notes, plats, etc., has not been finished, and none of the surveys have yet been accepted by the General Land Office.

Authority was granted on November 16, 1904, for the acting agent of the Uintah Agency to employ a surveyor and necessary assistants, so as to begin the work of allotting the lands to the Indians, in manner as provided in the act of May 27, 1902, as soon as the surveys shall have been accepted by the General Land Office; but it is quite certain that very little of this work can be done in any event during the winter season, and as the said act requires that the allotments shall be made before the lands are thrown open, it is not believed to be possible to comply with such requirement in time to open the unallotted lands to public entry on March 10, 1905.

In view of the foregoing, I have the honor to submit the matter for the further consideration of your committee, with the request that the time for opening these lands be extended to October 1, 1905, the date suggested in Department letter of February 6, 1904, above referred to.

Very respectfully,

E. A. HITCHCOCK,
Secretary.

The CHAIRMAN OF THE COMMITTEE ON INDIAN AFFAIRS,
House of Representatives.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, December 24, 1904.

SIR: Referring to your communication dated November 13, 1904, in which you advised this office that the

Department requested Congress, under date of the 10th instant, to further extend the time for the opening of the lands of the Uintah Reservation, Utah, to public entry until October 1, 1905, I have the honor to transmit herewith a copy, in duplicate, of a communication from Capt. C. G. Hall, acting agent, dated December 14, 1904, giving reasons why the opening of the reservation should be postponed. The copies are transmitted for such disposition as you may be pleased to make.

Very respectfully,

A. C. TONNER,
Acting Commissioner.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
Washington, January 4, 1905.

SIR: Referring to my letter to your committee under date of the 10th ultimo, requesting, for reasons therein stated, that the time for opening the surplus lands of the Uintah Indian Reservation, in Utah, to public entry, be extended to October 1, 1905, I have the honor to transmit herewith, for your consideration in connection therewith, a copy of a communication, dated the 24th ultimo, from the Acting Commissioner of Indian Affairs, forwarding a letter from Capt. C. G. Hall, acting agent of the Uintah and Ouray Agency, Utah, of the 14th ultimo, giving further reasons why the opening of the said reservation should be postponed.

Very respectfully,

E. A. HITCHCOCK,
Secretary.

The CHAIRMAN OF THE COMMITTEE ON INDIAN AFFAIRS,
United States Senate.

DEPARTMENT OF THE INTERIOR,
Washington, January 4, 1905.

SIR: I have the honor to invite your attention to the inclosed copy of a letter from the Acting Commissioner of Indian Affairs, dated December 24, 1904, with which is transmitted a report from the acting agent of the Uintah and Ouray Agency, Utah, relative to the grazing lands to be reserved for the Indians of said agency, under the provisions of the act of Congress approved March 3, 1903 (32 Stat. L., 982).

It appears from Captain Hall's letter that the location of the grazing lands as fixed by said act, south of the Strawberry River, will not be for the best interests of the Indians for several reasons:

First. That portion of the reservation is suitable for winter range.

Second. It is remote from the agency, near which a great many of the Indians will of necessity be located, and they will take little or no interest in cattle that are placed 60 or 70 miles from where they live.

Third. Better grazing lands can be had in the section lying from the forks of the Upper Duchesne River along the foothills of the Uintah Range to the section east of the agency known as "Deep Creek," which land, while not very suitable for agricultural purposes, affords excellent grazing.

In view of the facts above stated, I have the honor to submit herewith a draft of an item, prepared in the office of Indian Affairs, for insertion in the Indian appropriation bill, the effect of which will be to modify that provision of the said act of March 3, 1903, which confines the grazing lands to that portion of the reservation south of the Strawberry River, and permit other and better lands to be selected for that purpose.

The matter is submitted for consideration, with request for the favorable action of your committee thereon.

Very respectfully,

E. A. HITCHCOCK,
Secretary.

The CHAIRMAN OF THE COMMITTEE ON INDIAN AFFAIRS,
United States Senate.

DEPARTMENT OF THE INTERIOR,
Washington, January 20, 1905.

SIR: I have the honor to acknowledge the receipt of your letter of the 19th instant, in regard to the opening of the lands of the Uintah Reservation and the setting aside of grazing lands therein.

The matter having been referred to the Commissioner of Indian Affairs for consideration, you are advised that the Commissioner is of the opinion that certain changes should be made in the bill so as to provide for the opening of the lands in the discretion of the President, in order that when allotments are completed he can open the lands as soon thereafter as may seem desirable, and to that end the Commissioner proposes the following amendment in line 17, on page 38, of the Indian appropriation bill: After the word "five" to insert "unless the President shall determine that the same may be opened at an earlier date." With this amendment the Commissioner is of the opinion, and so am I, that it will not be at all necessary to amend the bill in the manner suggested by Mr. Howell.

As to the suggestion of Mr. Howell that it should be made clear that the grazing lands are not to exceed 250,000 acres, the Comissioner suggests that I concur, that the bill as it now stands modifies existing legislation only as to the location of the grazing lands, leaving the quantity intact as to the number of acres to be set aside for that purpose.

Referring to the suggestion of Mr. Howell as to the manner of opening these lands to settlement, that is to say, under the general provisions of the homestead, townsite, and mining laws of the United States, I am of the opinion that this would be very detrimental to the interests of the Indians, and recommend that the item in H. R. 17474, as it now stands, be adhered to, beginning with the word "*Provided,*" in line 17, page 38, and I have to request that no change be made therein.

Very respectfully,

E. A. HITCHCOCK,
Secretary.

Hon. JAMES S. SHERMAN,
Chairman Committee on Indian Affairs,
House of Representatives.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., January 31, 1905.

SIR: I have the honor to inform you that the township and subdivisional surveys in the Uintah Indian Reservation, which were made necessary by the act of Congress providing for the opening of the reservation to entry, have been completed in the field, and allotments to the Indians can be undertaken whenever practicable for your office to proceed with the same.

Certain corrections of lines and corners on the ground may yet be required of the deputy surveyors to comply with the Manual of Surveys, but it is assumed that the allotments can be effected without waiting for these corrections from the triplicate plats of these surveys, which have been forwarded by the surveyor-general of Utah.

Very respectfully,

W. A. RICHARDS,
Commissioner.

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, February 3, 1905.

SIR: This office is in receipt of your communication "E," dated January 31, 1905, in which you state that the township and subdivision surveys in the Uintah Indian Reservation, which were made necessary by the act of Congress providing for the opening of the reservation to entry, have been completed in the field, and allotments to the Indians can be undertaken whenever practicable for this office to proceed with the same. You add that certain corrections of lines and corners on the ground may yet be required of the deputy surveyors to comply with the Manual of Surveys, but it is assumed that the allotments can be effected without waiting for these corrections from the triplicate plats of these surveys, which have been forwarded by the surveyor-general of Utah.

In reply to your suggestion that the allotments to the Indians can be undertaken whenever practicable for this office to proceed with the same, you are advised that it will be practicable to proceed with the allotments as soon as the returns of the surveys are received in this office. If it be not practicable to furnish this office at once with the triplicate plats, owing to the corrections that are required, it is requested that it be furnished with photographic copies of said plats and with the triplicate field notes. The cost of photographing the plats can be defrayed from the appropriation of $5,000 made by the Indian appropriation act approved April 21, 1904, to enable the Secretary of the Interior to do the necessary

surveying and otherwise carry out the purposes of so much of the act of May 27, 1902, as provides for the allotment of the Indians of the Uintah and White River Utes in Utah.

Very respectfully,

C. F. LARRABEE,
Acting Commissioner.

The COMMISSIONER OF THE GENERAL LAND OFFICE.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., February 6, 1905.

SIR: The act of May 27, 1902 (32 Stat. L., 263), provided that the Secretary of the Interior should cause to be allotted lands to members of the Uintah and White River tribes of Ute Indians prior to October 1, 1903, on which date all the unallotted lands within said reservation should be restored to the public domain, and that persons entering any of said lands under the homestead law should pay therefor at the rate of $1.25 per acre.

Under the act of July 1, 1902 (32 Stat. L., 575), the Secretary of the Interior was authorized and directed to cause an estimate to be made and submitted to Congress at the beginning of its next session for the survey of the Uintah Reservation, in Utah, and other reservations therein named.

In accordance with this act estimates were submitted and by the act of March 3, 1903 (32 Stat. L., 997), there was appropriated for the survey of the Uintah Reservation and the other reservations named in the foregoing act $175,000, and in the same section of the same act it was provided that the time for opening the unallotted lands to public entry on said Uintah Reservation, as provided by the act of May 27, 1902, be extended to October

1, 1904. Under date of March 23, 1903, the Department inclosed to this Office copy of Indian Office letter and directed the survey of the Uintah Reservation. The matter was at once taken up with the surveyor-general of Utah. Advertisements for proposals were authorized, in response to which bids were received, submitted to this Office and to the Department, and under date of July 15, 1903, the surveyor-general of Utah was advised of departmental concurrence and authorized to let 18 contracts, covering the entire unsurveyed portion of the reservation. These contracts were let, submitted to this Office and approved, and the surveyor-general advised and instructed to order the deputies into the field.

Under date of February 3, 1904, the Secretary of the Interior made inquiry of this Office as to the probable time necessary to complete the surveys of the Uintah Reservation, with a view to bringing the matter to the attention of Congress, providing such surveys could not be completed prior to October 1, 1904. On February 4, 1904, this Office stated that "none of the contracting surveyors had completed their field work, and expressed the opinion that the work in the field, the office work on the plats and field notes by the surveyor-general's force, the field inspection, and subsequent office examination here would require the whole of the next surveying season, and that the date of said opening should be postponed at least another year."

This report was transmitted to Congress by the Secretary February 6, 1904, in which he stated that after the completion of the surveys some 1,600 allotments were to be made, which would require at least three or four months, or probably longer, as the act provides for the allotment of agricultural lands that can be irrigated. He therefore recommended that the date for said opening be extended for one year from October 1, 1904.

An amendment to the Indian appropriation bill for the year ending June 30, 1905, extending such time to October 1, 1905, passed the House, but said amendment was stricken out in the Senate. The conference committee adopted a compromise date, viz., March 10, 1905, and this provision is a part of the act of April 28, 1904. (33 Stat. L., 207.) See Congressional Record, Fifty-eighth Congress, second session, page 4632, for conference report.

As suggested in my report of February 4, 1904, the whole of the surveying season of 1904, and in fact up to January 1, 1905, was required within which to complete the surveys of the reservation and the examination of the surveys in the field. The office work necessary in connection with said surveys could be completed prior to March 10, 1905, but a large number of allotments to Indians remain to be made. In view of the climatic conditions existing at this season of the year, and the fact that such allotments must be made of agricultural land that can be irrigated, it is not possible that such allotments can be made prior to March 10, 1905.

Very respectfully,

W. A. RICHARDS,
Commissioner.

The SECRETARY OF THE INTERIOR.

S. Rep. No. 4240, 58th Cong., 3d Sess. (1905) (LD 102)

SENATE

58th Congress, 3d Session Report No. 4240

INDIAN APPROPRIATION BILL.

FEBRUARY 20, 1905.—Ordered to be printed.

Mr. STEWART, from the Committee on Indian Affairs, submitted the following

REPORT.

[To accompany H. R. 17474.]

* * * *

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, February 1, 1905.

The SECRETARY OF THE INTERIOR.

SIR: I have the honor to acknowledge receipt, by Department reference of January 30, of a copy of S. 6867, "A bill to provide the manner of opening for settlement and entry and for disposition of certain lands in the Uintah Reservation in Utah." The reference is for report.

The bill provides that the unallotted lands, excepting such tracts as may have been set aside as a national forest reserve, shall be disposed of under the general provisions of the homestead and town-site laws of the United States, to be opened to settlement and entry by

proclamation of the President, which shall prescribe the manner in which said lands may be settled upon, occupied, and entered by persons entitled, and no person shall be permitted to settle upon, occupy, or enter any of said lands, except as prescribed in the proclamation, until after the expiration of sixty days from the time when the same are opened to settlement and entry. A provision is made to protect the rights of soldiers and sailors, as defined in sections 2304 and 2305, Revised Statutes, and as amended by the act of March 1, 1901. It provides, further, that all lands opened to settlement and entry under this act remaining undisposed of at the expiration of five years after the act is approved shall be sold and disposed of for cash under rules and regulations to be prescribed by the Secretary of the Interior, not more than 640 acres to any one person; the proceeds of the sale of such lands to be applied as provided in the act of Congress of May 27, 1902, and the acts amendatory thereof and supplemental thereto.

It is to be noted that this bill refers to the time for opening to public entry the unalloted lands on the Uintah Reservation in Utah as having been fixed by law as the 10th day of March, 1905.

The Indians have not been allotted, and it will not be possible to complete the allotments by the time indicated. The Indian appropriation bill as it passed the House of Representatives contains a provision deferring the opening of the unallotted lands until September 1, 1905, unless the President shall determine that the same can be opened at an earlier date.

If the bill is amended so as to be in harmony with this provision, there is no reason known to this Office why the measure should not become law.

As the manner of opening Indian reservations to entry and settlement after the lands are restored to the public domain is a matter that comes within the jurisdiction of

the General Land Office, it is suggested that the bill be referred to that Office.

Very respectfully,

F. E. LEUPP,
Commissioner.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., February 14, 1905.

The SECRETARY OF THE INTERIOR.

SIR: I have for report Senate bill 6867, entitled "A bill to provide the manner of opening for settlement and entry and for disposing of certain lands in the Uintah Reservation in Utah."

This bill provides, among other things, that the unallotted portions of land within the Uintah Indian Reservation in the State of Utah—

> excepting such tracts as may have been set apart as a national forest reserve, shall be disposed of under the general provisions of the homestead and town-site laws of the United States, and shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the manner in which these lands may be settled upon, occupied, and entered by persons entitled to make entry thereof * * *.

Attention is called to the fact that under act of May 27, 1902 (32 Stat., 263), these lands were to be simply "restored to the public domain," and could, consequently, under that statute be appropriated under any of the public-land laws, while the pending bill provides that they "shall be disposed of under the general provisions of the homestead and town-site laws of the United States."

Possibly doubt may arise in determining whether the proposed bill will repeal the act of May 27, 1902, in so far as that act would permit entries under other than the homestead and town-site laws, and for the purpose of removing any possible doubt on this subject I would suggest that the word "only" be inserted between the words "of" and "under" in line 10, on page 1.

Attention is also called to the fact that this bill excepts from entry only "such tracts as may have been set aside as a national forest reserve," created from the unreserved lands, but does not exclude from such lands the grazing lands provided for the Indians by joint resolution of June 19, 1902 (32 Stat., 744), and act of March 3, 1903. (32 Stat., 998.)

It is therefore suggested that the pending bill be amended by adding, after the word "reserve," at the end of line 9, page 1, the words—

> and the land to be set apart for the Uintah and White River Utes and other Indians, south of the Strawberry River on said reservation, not to exceed two hundred and fifty thousand acres.

The date for the opening of these lands has been changed from October 1, 1903 (32 Stat., 263), to October 1, 1904 (32 Stat., 998), then to March 10, 1905 (33 Stat., 207), and while the surveys of said reservation have been completed allotments have not been made to the Indians, and, as mentioned in the report of the Commissioner of Indian Affairs, the Indian appropriation bill as it passed the House of Representatives contains a provision deferring the opening of the unallotted lands until September 1, 1905, unless the President shall determine that the same can be opened at an earlier date.

The provisions of this bill prescribing the manner in which the lands are to be opened are similar to the provisions under which the Rosebud Indian Reservation, in

South Dakota, and the Devils Lake Indian Reservation, in North Dakota, were opened during the past year. This method was first tried in the opening of lands in Oklahoma, and it is believed that the wisdom of the plan has been sufficiently demonstrated to justify its adoption in this instance. It has been demonstrated that this method of disposing of public lands materially lessens the number of expensive contests which former methods provoked.

I have, therefore, to recommend that after the bill has been amended as above suggested it be enacted into law.

Very respectfully,

W. A. RICHARDS,
Commissioner.

* * * *

Excerpts from 39 Cong. Rec. (1905) (LD 103)

CONGRESSIONAL RECORD—HOUSE

JANUARY 21

[1179] INDIAN APPROPRIATION BILL

The committee resumed its session.
The Clerk read as follows:

That so much of the act of March 3, 1903, as provides that the grazing lands to be set apart for the use of the Uintah, White River Utes, and other Indians on the Uintah Reservation, as provided by public resolution No. 31, of June 19, 1902, shall be confined to the lands south of the Strawberry River, be, and the same is hereby, repealed.

Mr. FINLEY. I desire to reserve the point of order on this paragraph, line 5, down to and including line 11, for the purpose of having some explanation.

Mr. SHERMAN. The original act provided for setting aside 250,000 acres for grazing land for these Indians, and provided for locating it at a point in the reservation south of the Strawberry River. Now it appears that the Indians are located north of the Strawberry River, and from 40 to 60 miles therefrom, so that under the provision of the law the location must be at a distance of from 40 to 60 miles from where the Indians are located, and that the land is no better. This provision removes that restriction and permits the location north of the Strawberry. It does not change the amount to be set aside; it does not change the law as to the setting aside of the land for pasture, but simply makes it possible for the Department to make the location north of the Strawberry; nearer where the Indians are now located.

Mr. FINLEY. I simply wanted to know if the provision was in the interest of the Indians or in the interest of the cattle owners.

Mr. SHERMAN. It is in the interest of the Indians, and is inserted here at the recommendation of the Department.

The CHAIRMAN. The gentleman from South Carolina withdraws the point of order.

Mr. HOWELL of Utah. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

> After line 11, page 38, insert "but the land so set apart in pursuance of said resolution of June 19, 1902, shall not exceed 250,000 acres."

Mr. HOWELL of Utah. Mr. Chairman, in explanation of the amendment I wish to say that the resolution of June 19, 1902, simply authorized the Secretary of the Interior to set apart such a quantity of grass land as might subserve the purposes of the Indians. The act of March 3, 1903, provided that the lands that were set apart for the grazing of live stock of the Indians should be located on the south side of the Strawberry River. In the opinion of some attorneys whom I have consulted in regard to this matter, the present section repealing the act of March 3, 1903, might be construed to also repeal the limitation of 250,000 acres; therefore, to remove any doubt and to establish the fact for a certainty that the limitation of 250,000 acres is to stand, I have offered this amendment.

Mr. SHERMAN. Mr. Chairman, I think this amendment is absolutely unnecessary. The gentleman from Utah called my attention to it, and I told him so then, and to make assurance doubly sure, I submitted it to the Department, to the Secretary, and he submitted it to his law officer, who writes me that "as to the suggestion of Mr. HOWELL, that it should be made clear that the grass lands are not to exceed 250,000 acres. The Commissioner suggests, and I agree, that the bill as it now stands modifies existing legislation only as to the condition of the grass land, leaving the quantity intact as to the number of acres set aside for that purpose."

So it seems to me, Mr. Chairman, that this amendment is entirely unnecessary.

The question was taken; and on a division (demanded by Mr. SHERMAN) there were—ayes 7, noes 29.

So the amendment was rejected.

[1180] The Clerk read as follows:

> That the time for opening the unallotted lands to public entry on the Uintah Reservation in Utah, as provided by the acts of May 27, 1902, and March 3, 1903, and April 21, 1904, be, and the same is hereby, extended to October 1, 1905: *Provided*, That so much of said lands as will be under the provisions of said acts restored to the public domain shall be open to settlement and entry by proclamation of the President of the United States, which proclamation shall prescribe the manner in which these lands may be settled upon, occupied, and entered by persons intending to make entry thereon; and no person shall be permitted to settle upon, occupy, or enter any of said lands, except as prescribed in such proclamation, until after the expiration of sixty days from the time when the same are opened to settlement and entry: *Provided*, That the rights of honorably discharged Union soldiers and sailors of the late civil and the Spanish wars or Philippine insurrection, as defined and described in sections No. 2304 and No. 2305 of the Revised Statutes, as amended by the act of March 1, 1901, shall not be abridged.

Mr. SHERMAN. Mr. Chairman, I offer the following amendment.

Mr. HOWELLof Utah. And to that amendment, Mr. Chairman, I make a point of order on the ground that it repeals existing law and is new legislation.

Mr. SHERMAN. Does the gentleman make the point of order or reserve it?

Mr. HOWELL of Utah. I will reserve the point of order to hear the amendment.

Mr. SHERMAN. Then, Mr. Chairman, I ask that the Clerk read the amendment which I offer.

The CHAIRMAN. The Clerk will read the amendment for the information of the committee.

The Clerk read as follows:

> Page 38, line 17, after the word "five," insert "unless the President shall determine that the same may be opened at an earlier date."

Mr. SHERMAN. Now, Mr. Chairman, just a word. Of course I do not contend for a moment that the amendment is not subject to a point of order. It does change existing law. I had discussed the subject with the gentleman from Utah, and I certainly understood from the conversation that this modification was in line with his ideas; that he thought it was wise; and, in fact, the amendment was in part drawn to conform with his ideas on the subject, and I am a bit astonished that the gentleman now rises to a point of order against the amendment. But if he does raise it I shall not attempt to argue that it is in order.

Mr. HOWELL of Utah. With that explanation, Mr. Chairman, I will withdraw the point of order. Now, I desire to offer an amendment to the entire section.

The CHAIRMAN. The question is first on agreeing to the amendment proposed by the gentleman from New York.

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The gentleman from Utah offers the following amendment, which the Clerk will report.

The Clerk read as follows:

> That the time for opening the unallotted lands to public entry on the Uintah Reservation in Utah having been fixed as the 10th day of March, 1905, it is hereby provided that so much of said lands as will be under the provisions of said acts restored to the public domain shall be open to settlement and entry

> by proclamation of the President of the United States, which proclamation shall prescribe the manner in which these lands may be settled upon, occupied, and entered by persons intending to make entry thereon; and no person shall be permitted to settle upon, occupy, or enter any of said lands, except as prescribed in such proclamation, until after the expiration of four months from the time when the same are opened to settlement and entry: *Provided*, That the rights of honorably discharged Union soldiers and sailors of the late civil and the Spanish wars or Philippine insurrection, as defined and described in sections 2304 and 2305 of the Revised Statutes, as amended by the act of March 1, 1901, shall not be abridged: *And further provided*, That for one year immediately following the restoration of said lands to the public domain said lands shall be subject to entry only under the homestead, town-site, and mining laws of the United States.

Mr. HOWELL of Utah. Mr. Chairman, I desire to discuss briefly some matters pertaining to the Uinta Indian Reservation, in Utah, and as a preface to my remarks will give a short description of said reservation, same being taken from the comprehensive report of Mr. Cyrus C. Babb, of the Geological Survey. It is located in northeastern Utah, and was set aside by executive order of President Lincoln on October 3, 1861, which order was subsequently approved by four acts of Congress, the latest hearing date of May 24, 1868. The reservation includes almost entirely the drainage basin of the Duchesne River with its main tributary, Uinta River. The total area is 2,039,040 acres, of 3,186 square miles. Its northern boundary is the divide of the Uinta Mountains, whose peaks attain an elevation of over 13,000 feet. Its western boundary is a portion of the Wasatch Range, while its southern boundary is an irregular line over the rolling country between the basin of the Minnie Maud Creek and the small tributaries of the Duchesne.

Green River forms the boundary for a short distance at the southeastern extremity. The eastern boundary as originally surveyed was afterwards modified by act of Congress approved May 24, 1888, in order to exclude the so-called "strip," a triangular area of 7,000 acres east of Fort Duchesne, which contains valuable uintaite or gilsonite deposits. The greatest due east-west length is about 75 miles, with a north-south width of approximately 60 miles.

The northern part of this reservation is of great altitude and is densely wooded; it is in this part that all water courses draining the reservation find their source. This particular portion will not be thrown open to entry, but is to be set aside as a forest reserve and will later be incorporated with the present Uintah Forest Reserve.

I wish also to embody in my remarks the legislation enacted by Congress with a view to allotting to the Indians resident on the reservation lands in severalty in order that the remainder or excess of lands within the reservation might be restored to the public domain and thus be made available for entry and settlement. The Indian appropriation act of May 27, 1902, contains, among others, these provisions:

> That the Secretary of the Interior, with the consent thereto of the majority of the adult male Indians of the Uintah and White River tribes of Ute Indians, to be ascertained as soon as practicable by an inspector, shall cause to be allotted to each head of a family 80 acres of agricultural land, which can be irrigated, and 40 acres of land to each other member of said tribes, said allotments to be made prior to October 1, 1903, on which date all the unallotted lands within said reservaiton shall be restored to the public domain: *Provided*, That persons entering any of said land under the homestead law shall pay therefor at the rate of $1.25 per acre: *And provided further*, That nothing herein contained shall impair the rights of any mineral lease which has

been approved by the Secretary of the Interior or any permit heretofore issued by direction of the Secretary of the Interior to negotiate with said Indians for a mineral lease; but any person or company having so obtained such approved mineral lease or such permit to negotiate with said Indians for a mineral lease on said reservation, pending such time and up to thirty days before said lands are restored to the public domain as aforesaid, shall have in lieu of such lease or permit the preferential right to locate under the mining laws not to exceed 640 acres of contiguous mineral land, except the Raven Mining Company, which may in lieu of its lease locate 100 mining claims of the character of mineral mentioned in its lease; and the proceeds of the sale of the lands so restored to the public domain shall be applied, first, to the reimbursement of the United States for any moneys advanced to said Indians to carry into effect the foregoing provisions, and the remainder, under the direction of the Secretary of the Interior, shall be used for the benefit of said Indians. And the sum of $70,064.48 is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, to be paid to the Uintah and White River tribes of Ute Indians, under the direction of the Secretary of the Interior, whenever a majority of the adult male Indians of said tribes shall have consented to the allotment of lands and the restoration of the unallotted lands within said reservation as herein provided.

Said item of $70,064.48 to be paid to the Uintah and White River Utes covers claims which these Indians have made on account of the allotment of lands on the Uintah Reservation to Uncompahgre Indians and from which the Government has received from said Uncompahgre Indians money aggregating $60,064.48; and the remaining $10,000 claimed by the Indians under an act of Congress

detaching a small part of the reservation on the east, and under which act the proceeds of the sale of the lands were to be applied for the benefit of the Indians.

On June 19, 1902, about three weeks after the passage of the act from which I have just quoted, joint resolution 31, supplementing and modifying certain provisions of said act, was approved. The particular clauses of this joint resolution bearing on the Uintah Indian Reservation are as follows:

> In addition to the allotments in severalty to the Uintah and White River Utes of the Uintah Indian Reservation, in the State of Utah, the Secretary of the Interior shall, before any of said lands are opened to disposition under any public land law, select and set apart for the use in common of the Indians of that reservation such an amount of non-irrigable grazing lands therein, at one or more places, as will subserve the reasonable requirements of said Indians for the grazing of live stock.
>
> All allotments hereafter made to Uncompahgre Indians of lands in said Uintah Indian Reservation shall be confined to agricultural land which can be irrigated, and shall be on the basis of 80 acres to each head of a family and 40 acres to each other Indian, and no more. The grazing selected and set apart as aforesaid in the Uintah Indian Reservation for the use in common of the Indians of that reservation shall be equally open to the use of all Uncompahgre Indians receiving allotments in said reservation of the reduced area here named.

It will be observed that originally provision was made for throwing open to entry this reservation on October 1, 1903. The Indian appropriation bill approved March 3, 1903, provided, however, that the date of the opening be deferred for one year—that is to say, to October 1, 1904—and otherwise modified the provisions of joint

resolution 31, already referred to, in the following language:

> To enable the Secretary of the Interior to do the necessary surveying and otherwise carry out the purposes of the act of May 27, 1902, making appropriations for the current and contingent expenses of the Indian Department for the fiscal year 1903, and for other purposes, as provides for the allotments of the Indians of the Walker River Reservation, in Nevada, and the Uintah and White River Utes, in Utah, and the joint resolution of June 19, 1902, providing for the allotment of the Indians of Spokane Reservation, in Washington, to be immediately available, $175,000: *Provided, however*, That the Secretary of the Interior shall forthwith send an inspector to obtain the consent of the Uintah and White River Ute Indians to an allotment of their lands, as directed by the act of May 27, 1902, and if their consent as therein provided can not be obtained by June 1, 1903, then the Secretary of the Interior shall cause to be allotted to each of said Uintah and [1181] White River Ute Indians the quantity and character of land named and described in said act: *And Provided further*, That the grazing lands to be set apart for the use of the Uintah, White River Utes, and other Indians, as provided by public resolution No. 31, of June 19, 1902, be confined to the lands south of the Strawberry River, on said Uintah Reservation, and shall not exceed 250,000 acres: *And provided further*, That the time for opening the unallotted lands to public entry on said Uintah Reservation, as provided by the act of May 27, 1902, be, and the same is hereby extended to October 1, 1904.
>
> That in the lands within the former Uncompahgre Indian Reservation, in the State of Utah, containing gilsonite, asphaltum, elaterite, and other like substances, which were reserved from location and entry

by provision in the act of Congress entitled "An act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the fiscal year ending June 30, 1898, and for other purposes," approved June 7, 1897, all discoveries and locations of any such mineral lands by qualified persons prior to January 1, 1891, not previously discovered and located, who recorded notices of such discoveries and locations prior to January 1, 1891, either in the State of Colorado or in the office of the county recorded of Uintah County, Utah, shall have all the force and effect accorded by law to locations of mining claims upon the public domain. All such locations may hereafter be perfected, and patents shall be issued therefor upon compliance with the requirements of the mineral-land laws: *Provided*, That the owners of such locations shall relocate their respective claims and record the same in the office of the county recorder of Uintah County, Utah, within ninety days after the passage of this act. All locations of any such mineral lands made or recorded on or subsequent to January 1, 1891, are hereby declared to be null and void; and the remainder of the lands heretofore reserved as aforesaid because of the mineral substances contained in them, in so far as the same may be within even-numbered sections, shall be sold and disposed of in tracts not exceeding 40 acres, or a quarter of a quarter of a section, in such manner and upon such terms and with such restrictions as may be prescribed in a proclamation of the President of the United States issued for that purpose not less than one hundred and twenty days after the passage of this act, and not less than ninety days before the time of sale or disposal, and the balance of said lands and also all the mineral therein are hereby specifically reserved for future action of Congress,

On February 6, 1904, the honorable Secretary of the Interior, in a communication addressed to the chairman of the House Committee on Indian Affairs, requested that the time for opening the reservation be again extended, this time to October 1, 1905, which request was based on a letter from the honorable Commissioner of the General Land Office to the effect that the necessary surveys of the reservation could not be completed, and the required allotments made by the date previously fixed. The House acceded to his request by incorporating such a provision in the Indian appropriation bill; the Senate however, amended this provision by fixing March 10 as the date for the opening. This amendment finally carried. The particular clause bearing on this subject is as follows:

> That the time for opening the unallotted lands to public entry on the Uintah Reservation in Utah, as provided by the acts of May 27, 1902, and March 3, 1903, be, and the same is hereby, extended to March 10, 1905, and $5,000 is hereby appropriated to enable the Secretary of the Interior to do the necessary surveying, and otherwise carry out the purposes of so much of the act of May 27, 1902, making appropriation for the current and contingent expenses of the Indian Department for the fiscal year 1903, and for other purposes, as provides for the allotment of the Uintah and White River Utes in Utah.

Now, in contemplation of these several acts expressing the well-defined intention of Congress to secure a speedy opening of this reservation, I am constrained to regard the dilatory action of the Department of the Interior as evincing an utter lack of good faith and due diligence in carrying out the law. We are now confronted with another request for a further extension of time, this time to October 1, 1905.

I, for one, desire to protest vigorously here and now, against this further delay and, as a basis for my protest will state that so great an extension of time as has been

asked for, does not seem to be at all necessary. I lately addressed the honorable Commissioner of the General Land Office requesting information as to the present status of the surveys now being made of the lands in the reservation and received in reply the letter I will now read:

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D.C., January 14, 1905.

Hon. JOSEPH HOWELL,
House of Representatives.

SIR: I have your letter of the 12th instant inquiring as to the progress made with the surveys within the Uintah Indian Reservation. You state that you understand that the "surveys which are now all completed will be accepted and approved by the Department," and you also understand that "until the surveys are accepted, the allotments to the Indians as provided for in the act of May 27, 1902, opening the reservation to entry, can not be undertaken."

In reply I have the honor to state that the field work of said surveys has been executed and the plats and field notes thereof are now before this office for consideration, the last of the surveys having been received on the 6th instant. The force of office examiners is now engaged upon the returns and comparing them with the inspectors' reports. Probably the entire eighteen contracts will have been considered by the first of next month, and whether action on all these surveys will be favorable or not I am unable at present to state. The work is being pushed as rapidly as the force at my disposal will permit.

I am informed that some allotments have already been made in the field based on the old surveys (about twenty-five townships) but that further allotments must necessarily await the acceptance of the

surveys by this office, and upon informal consultation at the Indian Office I am advised that it is essential that the allotments to the Indians should be made in the field, which would seem to be impracticable before next summer.

Very respectfully,

W. A. RICHARDS,
Commissioner.

From this letter it is apparent that there is no necessity for such an extension as has been proposed; it is reasonable to assume that the surveys, having now been completed, will have been approved and accepted within a month, or at least before March 10, the date last fixed by law for the restoration of the unallotted lands to the public domain. It is further shown that partial allotments to the Indians have already been made, and why it should require so much additional time to complete them is not clear. The character of these lands is not unknown; a thorough investigation of them was made by Mr. Cyrus C. Babb, under the direction of Mr. F. H. Newell, chief hydrographer of the Geological Survey, as long ago as 1899, and the results of his investigation communicated to the Department of the Interior and to the House.

It is entirely reasonable to suppose that the locations of the best lands—those which should be allotted to the Indians—are already known and decided on; from which it would follow that the remaining allotments could be completed early in the spring. The climatic conditions there are not so rigorous that the work of allotment need be delayed until the summer time.

When the question was up before us during the last session of Congress, the then Commissioner of Indian Affairs declared that, when the surveys were completed and everything in readiness for making allotments, thirty days would suffice for completing this work.

The gentleman from New York [Mr. SHERMAN] stated here that, as he understood it, I had assented to the prop-

osition to authorize the President, at his discretion, to designate the time and prescribe the rules and regulations under which the unallotted lands of the reservation might be entered and settled upon.

I fear he misunderstood me to a certain extent. My idea was rather to leave the law as it now stands—that is to say, that provision of the law designating the 10th of March, 1905, as the date of the opening—and then for us now to authorize the President, in whose wisdom and discretion I have complete confidence, to prescribe such rules and regulations for entry and settlement of land as in his judgment would seem most proper, and also to fix a time when the same might be entered upon. The amendment which I have offered provides that four months shall elapse from the date (March 10) already fixed by law for the opening, until settlers are permitted to make entries, and authorizes the President to prescribe the manner thereof. This additional four months' extension of time would be ample, in my judgment, to permit of the completion of the work of allotment, as it also would give the President time to draft the proper rules and regulations to be followed.

The provisions of the bill now under discussion, however, indicate on the part of Congress a sanction and acceptance of the dilatoriness and seeming negligence on the part of those charged with the carrying out of past enactments. I fear that our favorable action on the bill in its present form will be construed as an approval and warrant for still further delays. Summing up what I have just said, I would favor leaving the date of the opening March 10, and giving the President discretion to defer the actual opening until such time as seems necessary, rather than to extend the time to October 1, "unless," in the words of Mr. SHERMAN's amendment just offered, "the President shall determine that the same may be opened at an earlier date."

The interest and welfare of the Indians should be carefully considered and jealously guarded; they are the wards

of the Government, and justice and humanity demand for them fair and honorable treatment. Were it not for these considerations and the hope of securing the amendment I have offered I would insist on the point of order raised.

The portion of the bill we are now discussing contains, in addition to a considerable extension of time, important and necessary provisions authorizing the President to prescribe rules and regulations for the entry and settlement of these lands. Without some orderly method of determining priority of right to locate lands there will result, in all probability, contention and disorder and perhaps violence in the rush and scramble to get first choice. This legislation is therefore in the highest degree necessary, and in view of the amendment proposed by the gentleman from New York I have withdrawn the point of order made, and have offered my amendment, already read, as a substitute therefor.

I have been compelled, with much reluctance and regret, to recognize the necessity for an extension of time. Personally, though, I have felt that sixty days additional would be ample; but, not desiring to set up my judgment as superior to that of [1182] the Secretary of the Interior —who, while this same matter was under discussion last winter, advised the gentleman from New York, the chairman of the Indian Committee, that the allotments to the Indians could be made in from three to four months' time —accordingly I have so framed my amendment as to fix the date for actual settlement and entry at four months from the date now fixed, or July 10, 1905.

I repeat, I greatly deplore the necessity for any extension of time at all, because thereby is involved the loss of practically one year to the settlers and home makers. If entry could be made immediately after March 10, there would be sufficient of the spring remaining to get crops in. It will be apparent that a very slight delay only will render this impossible. Right here I wish to read a letter, a sample of many similar ones sent to me, which I have

just received from a gentleman residing in the neighborhood of the reservation, which shows very graphically the seriousness of delay at all:

VERNAL, UTAH,
January 13, 1905.

Hon. JOSEPH HOWELL, *Washington, D.C.*

DEAR SIR: I see by the Deseret News that you are trying to have the opening of the reservation postponed until the middle of May, and I thought I would write and ask if you realized the situation here—that there are hundreds of people here waiting for the opening, and if they are allowed to go on the reservation on the 10th day of March, they can get their land and take out ditches and raise a crop sufficient for themselves; whereas if it is put off until the middle of May they will be unable to do anything in this line until next year. And they are a class of people who will greatly suffer and will have to seek employment elsewhere if they are prevented from raising a crop this year.

Yours, truly,

L. JOHNSON.

But it may be contended by some that inasmuch as a certain delay is inevitable and that the delay involving as it does the loss of one season's crop and effort, it would matter very little if the opening shall be deferred to October 1, 1905, as advocated by some; or, in other words, it would be a matter of small moment whether July 10 or October 1 should be fixed as the time. Replying to this imaginary contention, I might say that if perchance the President exercises the discretion allowed him and should not declare the reservation open until October 1, the date fixed by the bill, it would then be as impossible for intending settlers to do the pioneer work of subduing the soil, getting out canals and ditches, and planting their fall crops, as it is now impossible, because of the rigors of winter, to proceed with the work of allotment to the

Indians. If, on the other hand, my amendment shall carry, intending settlers can enter upon the land in midsummer, homes can be built, the land cleared, canals constructed, fall plowing and planting accomplished, and an excellent start thus made toward future prosperity. The proposition to open these lands just on the threshold of winter is preposterous and ill-conceived; it can be justified only from the standpoint of the speculator and land grabber. It is decidely adverse to the home seeker and home builder.

In this connection there is another matter of great importance and one which should receive the earnest attention of Congress. In the pending bill these lands, when restored to the public domain, are subject to entry under the general land laws of the United States, coupled with such rules and regulations as the President may prescribe. In my humble judgment there should be some provision such as is embodied in my amendment, limiting the lands in the reservation to entry under the homestead, townsite, and mining laws alone for one year from the date of the opening.

With the full development of the resources of this portion of the State of Utah will come also a capacity for supporting a numerous and thrifty population. Congress should see to it that until such time as those lands easy of access, reclamation, and irrigation are settled by actual home makers the provisions of the homestead law alone shall prevail. This policy is in accord with the dominant sentiment of the time, viz, that the public lands shall be reserved for actual homes for the people.

It may be found necessary later on for the future development of that section of the State to permit the lands to be acquired under the other land laws, but one year at least should elapse to give actual homesteaders a reasonable time for preferential entry before the other laws apply.

Under the provisions of the act of May 27, 1902, certain mining companies were given special rights and privi-

leges. At the time this law was enacted it was thought, no doubt, that the companies securing these valuable concessions would on October 1, 1903, the original date for opening the reservation, be compelled to make a location of the mineral lands granted them. Indignation has been general and widespread that these private mining companies should have been given such valuable concessions and advantages over others, but it is only fair to assume that if all the circumstances were known leading up to the granting of these concessions and privileges the public might be disposed to a home charitable view of the matter. Certainly, though, it could not have been in the mind of Congress that these companies, whose supposed rights were so carefully safeguarded, would, after October 1, 1903, be permitted to continue to profit by successive postponements. The facts as they appear with reference to these favored companies are not of a character to soothe one's feelings. Instead of making their locations by October 1, 1903, to which time they were originally limited under concessions granted them, they have continued from that time to the present (and will no doubt still continue) to prospect the reservation for the valuable minerals known exist there and to exploit it to their own advantage, while the dear public are strictly excluded and not permitted to interfere.

Every delay in throwing open the reservation to entry and settlement is directly in the interest of these favored concessionaires. They have, without doubt, not only long since determined on the locations most favorable to them, which they are entitled to make, but also as to other locations of minerals, which will give them an immense advantage over other prospectors when the opening actually occurs by enabling them to at once set up claims on prospects they have had ample time to discover.

It appears from data on file in the Interior Department that one of the concessionaires, the Raven Mining Company, has paid no royalty, as required under the terms of its lease, since December 31, 1902, and refuses to recog-

nize any liability for such royalty since October 1, 1903. This corporation has grown particularly arrogant in its claims and appears to flourish in its mercenary designs. The forfeiture clause of the lease made to this company reads as follows:

> XIV. In the event of any omission, neglect, or failure of the party of the second part to faithfully observe and perform any of its obligations arising upon and under the provisions of this lease, the Secretary of the Interior may, without prejudice to any other lawful remedy or remedies, treat the same as a sufficient cause for the forfeiture, abrogation, or termination of this lease by him unless within sixty days after notice thereof from the Secretary of the Interior the party of the second part shall fully correct such omission, neglect, or failure and make good any loss or injury occasioned thereby, and if after such notice and within the time named the party of the second part shall not fully correct such omission, neglect, or failure and make good any loss or injury occasioned thereby, or if thereafter such omission, neglect, or failure of the party of the second part shall be repeated, then at any time within sixty days thereafter the Secretary of the Interior may, at his option, declare this lease forfeited, abrogated, and terminated; and if this lease shall be so forfeited, abrogated, or terminated then and in that case the party of the second part shall wholly vacate the leased premises within thirty days of notice thereof, and upon failure of the party of the second part to vacate said premises the Secretary of the Interior shall have the right, on behalf of the Indians, to reenter the same and take possession thereof, using such force as may be deemed necessary to dispossess and remove therefrom the said party of the second part; and it is agreed and understood that any property of said party of the second part located on said premises at the time of such forfeiture, abro-

gation, or termination of this lease may be removed therefrom by the party of the second part within such reasonable time as may be fixed by the Secretary of the Interior, not to exceed six months from the forfeiture, abrogation, or termination of the lease, and any property of the party of the second part remaining upon the said premises after the expiration of the time so fixed for its removal shall thereupon become the property of said party of the first part and may be treated as such by the Secretary of the Interior: *Provided, however*, That the party of the second part shall have six months in which to remove its building, machinery, and other property from said lands, without hindrance by the party of the first part, if the party of the second part has performed all of the covenants and conditions imposed upon it by this lease.

Notwithstanding the plain terms of this lease, the said company takes on a defiant attitude toward the Government and, for reasons not discernible, no effective steps are taken to enforce the terms of the lease. The public residing in the neighborhood realize that these mining companies under the wide latitude allowed them have enjoyed exclusively the favored privilege of exploring and prospecting for minerals throughout the reservation; and, appreciating to the full extent such a discrimination against them and in favor of the companies, arouses within them a feeling of righteous indignation. It is manifestly a rank injustice and ought never to have been permitted; but regrets are now unavailing, and the proper thing is to stop it at the earliest possible moment.

In conclusion, I want to say that it will be for the best interest of the Indians to have the reservation speedily opened and settled. It is a locality rich in varied resources and possessing a fine climate. A great variety of minerals are known to exist there and a goodly portion of the land is well adapted to agriculture and fruit raising. With the opening will come a healthy development and there

will spring up many thrifty communities, both mining and agriculture, such as my State is famed for. The Indians will thus be brought into closer touch with up-to-date industrial methods and will be stimulated thereby to habits of thrift and industry; and within a few years this will appear as one of the favored spots of the earth. [1183] Mr. SHERMAN. Mr. Chairman, the gentleman from Utah naturally and properly looks upon this subject from the point of view of his constituents, the white people of Utah. I am looking upon it from the view point of the Indian's interests. Now, the Secretary, under the date of December 10, writes me—I will not read much of the letter—"It is quite certain that very little of this work"—that is, of the allotment work—"can be done in any event during the winter season, and as the said act requires that allotment shall be made before the lands are thrown open it is not believed to be possible to comply with such requirement in time to open the unallotted land to public entry on March 10, 1905." Now, because of that we ask for an extension until October. He proceeds in the letter to expressly ask that the act be amended so as to provide for the opening in October rather than in March.

Mr. HOGG. Mr. Chairman, may I ask the gentleman a question?

Mr. SHERMAN. Certainly.

Mr. HOGG. I would like to know if these surveys have been passed upon by the Government and approved?

Mr. SHERMAN. I understand not.

Mr. HOGG. I should like to know further, Mr. Chairman, if the Department has given any information as to the number of allotments already made to the Indians?

Mr. SHERMAN. They have not.

Mr. HOGG. Do you know whether this is being done?

Mr. SHERMAN. It is, as I understand it; I understand the work is now progressing.

Mr. HOGG. I had understood, Mr. Chairman, from the Commissioner that the surveys had been completed for some considerable time.

Mr. SHERMAN. This letter of December 10 states they are not; that is my information on the subject.

Mr. HOWELL of Utah. Mr. Chairman, with the permission of the gentleman, I would like just to read a part of a letter from the honorable Commissioner of the General Land Office:

In reply I have the honor to state that the field work of the said surveys has been executed, and the plats and field notes thereof are now before this office for consideration, the last of the surveys having been received on the 6th instant. The force of office examiners is now engaged upon the returns and comparing them with the inspectors' reports. Probably the entire eighteen contracts will have been considered by the 1st of next month, but whether action on all of these surveys will be favorable or not I am unable at present to state, but the work is being pushed as rapidly as the force at my disposal will permit.

Mr. SHERMAN. Now, Mr. Chairman, that letter itself, it seems to me, discloses that we ought not to attempt to open this reservation on the date of March 10. The letter itself says while the field work is completed, the notes only were received on the 5th day of January. None of the surveys are complete, and the suggestion of the Commissioner is that they will not be completed until the 1st of February next.

Mr. HOWELL of Utah. Will the gentleman from New York yield for a moment?

Mr. SHERMAN. Certainly.

Mr. HOWELL of Utah. Does the gentleman from New York understand this amendment does not propose to open these lands for settlement until the 10th day of July, nearly five months from the estimated time of the completion of the surveys?

Mr. SHERMAN. The amendment undertakes to do this: To restore this to the public domain on the 10th of March, and then on the 10th of March to require the President to issue a proclamation for the opening of the reservation four months thereafter.

Now, Mr. Chairman, the gentleman from Utah [Mr. HOWELL] was thoughtful and considerate enough to present his amendment to me, I think the night before last, and I sent it down at once to the Department for a report thereon and for an opinion in reference thereto.

The CHAIRMAN. The time of the gentleman from New York [Mr. SHERMAN] has expired.

Mr. SHERMAN. Mr. Chairman, I ask unanimous consent that I may be permitted to proceed for five minutes.

The CHAIRMAN. The gentleman from New York [Mr. SHERMAN] asks unanimous consent that he may be permitted to proceed for five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. SHERMAN. Under date of yesterday, the officer having the fullest knowledge of the entire situation and of the entire condition, the official superior to the Commissioner of the General Land Office, the Secretary of the Interior, writes me acknowledging the receipt of the amendment of the gentleman from Utah [Mr. HOWELL] and distinctly states that he is opposed to the amendment as not for the best interests of the Indians and asks that the provision as printed in the bill remain undisturbed.

And those are the interests that the members of the committee are helping to protect.

Mr. HOWELL of Utah. Mr. Chairman, I would like to ask the gentleman from New York [Mr. SHERMAN] a question.

The CHAIRMAN. Does the gentleman from New York [Mr. SHERMAN] yield to the gentleman from Utah [Mr. HOWELL]?

Mr. SHERMAN. Certainly.

Mr. HOWELL of Utah. I would like to ask the chairman of the Committee on Indian Affairs what the reasons are that occur to his mind that would injure the Indians to have these lands, for the first year, at least, preserved for actual home builders rather than to be entered under the present land laws and the timber and stone act, etc.? I see no reason why it should injure the Indians.

Mr. SHERMAN. I do not see any special reason myself, so far as that is concerned. But permit me to finish the reading of the letter.

Now, that is the recommendation of the Department made yesterday with the fullest and latest information at hand. I therefore trust——

Mr. STEPHENS of Texas. Mr. Chairman, I desire to ask the gentleman from New York [Mr. SHERMAN] this question.

The CHAIRMAN. Does the gentleman from New York [Mr. SHERMAN] yield to the gentleman from Texas [Mr. STEPHENS]?

Mr. SHERMAN. Certainly.

Mr. STEPHENS of Texas. I desire to ask whether these lands are thrown open under the existing law? What provision is made under the existing law if they are restored to the public domain and are to be opened under the general land laws of the nation?

Mr. SHERMAN. This amendment under consideration proposes to open them under a proclamation by the President, which shall lay down rules and regulations for their opening, the idea being to have such rules and regulations as were prescribed, for instance, in the Rosebud Reservation opening and have been used as the rules and regulations in the opening up of the Indian lands for the last two or three years, and which have proven to be not only beneficial to the Indians, but of advantage to the would-be settlers.

Mr. STEPHENS of Texas. And that is the object of the amendment?

Mr. SHERMAN. Yes, sir.

Mr. STEPHENS of Texas. That has been adopted already; that is, the amendment providing that the President shall have the right to adopt these rules and regulations.

Mr. SHERMAN. The section has been passed in the bill, and to that section the gentleman from Utah [Mr. HOWELL] offers this amendment.

Mr. STEPHENS of Texas. Would that be contradicting the amendment already offered providing that the President shall have that right?

Mr. SHERMAN. The gentleman from Utah [Mr. HOWELL] offers that practically as a substitute for the provision that is carried in the bill, and possibly it might have been subject to a point of order had not the whole been subject to the point of order. Certainly, the gentleman from Utah [Mr. HOWELL] having withdrawn his point of order to the provision in the bill which it was conceded was obnoxious to the rule, I could not with grace raise a point of order to his proposition.

Mr. Chairman, I will not take time to read, but will insert in the RECORD some correspondence on this subject.

DEPARTMENT OF THE INTERIOR,
Washington, December 10, 1904.

THE CHAIRMAN OF THE COMMITTEE ON INDIAN AFFAIRS,
House of Representatives.

SIR: I have the honor to transmit herewith, for the information of your committee, a copy of a communication addressed by me to the President, under date of November 25, 1904, giving a brief statement regarding the lands of the Uintah Indian Reservation, in Utah, and the present status of the same.

As you will observe, the Department, on February 6, 1904, in view of a report from the Commissioner of the General Land Office as to the probable time required to complete the surveys on this reservation, requested Congress to further extend the time for the opening of the same to public settlement for one year from October 1, 1904. The time, however, was extended by the Congress only until March 10, 1905, as per provision in the Indian appropriation act approved April 21, 1904, and $5,000 was appropriated to enable the Secretary of the Interior to have completed the surveying and allotting as required by the act of May 27, 1902.

The field work on these surveys is reported to be complete, but the office work on the field notes, plats, etc., has not been finished, and none of the surveys have yet been accepted by the General Land Office.

Authority was granted on November 16, 1904, for the acting agent of the Uintah Agency to employ a surveyor and necessary assistants, so as to begin the work of allotting the lands to the Indians, in manner as provided in the act of May 27, 1902, as soon as the surveys shall have been accepted by the General Land Office; but it is quite certain that very little of this work can be done in any event during the winter season, and as the said act requires that the allotments shall be made before the lands are thrown open, it is not believed to be possible to comply with such requirement in time to open the unallotted lands to public entry on March 10, 1905.

In view of the foregoing, I have the honor to submit the matter for the further consideration of your committee, with the request that the time for opening these lands be extended to October 1, 1905, the date suggested in Department letter of February 6, 1904, above referred to.

Very respectfully,

E. A. HITCHCOCK,
Secretary.

DEPARTMENT OF THE INTERIOR,
Washington, November 25, 1904.

The PRESIDENT:

I have the honor to be in receipt from Hon. William Loeb, jr., by your direction, of a request for my views on the subject-matter set out in a communication from Mr. J. H. Ramey, president of the chamber of commerce of Grand Junction, Colo.

Mr. Ramey states that he writes at the urgent request of the board of directors of the aforesaid organization, whose object is the advancement of commercial and in-

dustrial interests of western Colorado and eastern Utah, in regard to the opening of the Uintah Indian Reservation, in the latter section; that it is the consensus of opinion of their people that it is not for the best interests of the whole people that the said reservation should be opened in the manner now proposed, but that, on the contrary, it should be opened somewhat in the manner in which the Rosebud Reservation (in South Dakota) was recently opened—that is, by some equitable plan for drawing lands after registration—and he submits for consideration the question of amendment or change of the present law, which contemplates the opening of the said reservation by simply restoring the surplus lands to the public domain.

In response to your request for my views, I beg to give briefly for your information the following relating to recent legislation upon the said lands and their present status:

The Indian appropriation act approved May 27, 1902, provided for the allotment to the Indians of the reservation of agricultural lands, which can be irrigated, as follows: To each head of a family 80 acres, and to each other members of said tribes (Uintah and White River Utes) 40 acres. These allotments were to be made prior to October 1, 1903, on which date all the unallotted lands within the reservation should be restored to the public domain. The act provided for the protection of the rights of any mineral lease which had been theretofore approved by the Secretary of the Interior, or any permit theretofore issued by direction of the Secretary to negotiate with said Indians for a mineral lease. The act granted the right to any person or company who might have obtained such mineral lease or permit to negotiate, pending such time and up to thirty days before said lands were restored to the public domain, to locate, in lieu of such lease or permit, not to exceed 640 acres of contiguous lands, except the Raven Mining Company, which was authorized to locate 100 mining claims in lieu of its lease.

The Indian appropriation act approved March 3, 1903, extended the time for opening the unallotted lands on said reservation, as provided by the act of May 27, 1902, to October 1, 1904. This was because of the showing made by the Department as to the impossibility of selecting, surveying, and locating the Indians upon irrigable lands within the time limit fixed by the act of 1902.

The work of surveying and marking the irrigable lands needed for allotments to the Indians was begun under the direction of the General Land Office and was pushed as vigorously as the available force and weather conditions would permit; but on February 4, 1904, the Commissioner of the General Land Office, in response to an inquiry of the Department as to the probable time necessary to complete said surveys, reported that "owing to the necessary preliminaries, such as the proposals, awarding and letting of contracts, and preparation of instructions, the surveyors were not ready to take the field until in August last, leaving but a short season for their operations in the elevated region embracing the reservation. I am informally advised that none of the contracting surveyors have completed their field work, and I am of the opinion that the work in the field, the office work on the plats and field notes by the surveyor-general's force, the field inspection, and subsequent office examination here will require the whole of the next surveying season, and that the date for said opening should be postponed at least another year."

In view of this report, Congress was requested, by letter of February 6, 1904, addressed to Senate and House Committees on Indian Affairs, to further extend the date for the opening for one year from October 1, 1904.

The Indian appropriation act approved April 21, 1904, extended the time for the opening of the lands to March 10, 1905, and appropriated $5,000 to enable the Secretary of the Interior to have the surveying and alloting (as provided in the act of May 27, 1902) completed.

The surveys have been completed, but from a report by the Indian Office of November 7, 1904, it appears that none of said surveys have been yet accepted.

On November 16, 1904, authority was granted for Captain Hall, acting agent at Uintah, to employ a surveyor and necessary assistant in order to begin the work of alloting the lands to the Indians, as provided by law, but this authority was granted with the condition that none of these persons be employed and no allotment work be done until he is formally notified of the acceptance by the General Land Office of the surveys.

Regarding the Raven Mining Company, attention may be invited to the correspondence between the Department and the company respecting the company's liability for payment of royalties under its mineral lease on the Uintah Reservation. (This lease was for prospecting for and mining elaterite, asphaltum, woertzelite, gilonsite, and mineral wax, and covered a period of ten years from November 26, 1898, date of approval, and a large tract of land south of the Strawberry River and west of the first guide meridian, within which area 23 mining locations were subsequently approved by the Department.) No royalty has been paid by the company for products mined after December 31, 1902, and the company claims that it is not liable for royalties after September 30, 1903, on the ground that the act of May 27, 1902 had fixed October 1, 1903, as the date for opening the reservation. An opinion was rendered by the Assistant Attorney-General for this Department January 16, 1904, wherein it was held that the company was liable for the payment of such royalties after said date and until the reservation is opened to settlement, thus confirming the position of the Department as expressed in its letter of August 3, 1903, to the company on the subject.

By Department letter of November 5, 1904, the position theretofore taken as to the Raven Mining Company was adhered to, in the following words:

"Upon further careful consideration of the whole matter, and in answer to the questions above noted, you are

advised that, in the opinion of the Department, the Raven Mining Company is liable for payment of royalties after September 30, 1903, as heretofore held in opinion of the Assistant Attorney-General for this Department of January 16, 1904; that notice of increase in rate of royalty does not affect the product mined prior to the expiration of sixty days from such notice, and that formal demand should be made at once upon the company for payment of the amount of royalty found to be due upon all ore mined after April 29, 1904, at the rate of $4.50 per ton, the sixty days' notice provided for having been served on the company February 29, 1904.

"If payment of such royalties is then refused, suit will be brought against the company and the sureties on its bond to enforce payment of the same."

The above letter was amended by Department letter of November 6, 1904, directing the Commissioner of Indian Affairs to also make demand upon the company for royalty due and unpaid from date of last settlement (believed to be December 31, 1902) up to April 29, 1904, at the rate of $3.50 per ton.

In returning the communication of Mr. Ramey, which is herewith transmitted, I have to say that the views expressed therein meet my approval as to the manner of the opening of the reservation. If the lands are simply restored to the public domain, as contemplated by the present law, we will have a repetition of the disgraceful acts and scenes that have occurred at other openings in recent years, whereas if the opening be by registration and drawing, as was done at Rosebud, these may be largely avoided. But Congressional action to this end will be needed, and the same is recommended to your favorable notice.

In the matter of the time fixed by law for the restoration of the surplus lands of the reservation to the public domain (March 10, 1905), I have to state that, in my

opinion, it will be impracticable to do so because of the condition of the surveys of the reservation, which, as stated, have not yet been accepted by the Commissioner of the General Land Office, and because it now seems to be utterly impossible to make by that time the allotments to the Indians of the reservation, as required by the law.

Then there is to be considered the attitude of the Raven Mining Company in its defiance of the Department in its refusal to pay royalties due and claimed under its lease, necessitating suit at law to determine its liability, which is calculated to embarrass the Department in administering the affairs of the reservation. Further legislation by Congress may be required to compel the company to carry out its contracts with the Indians and the Government before the reservation is opened. This matter will be given full and early consideration.

Very respectfully,

E. A. HITCHCOCK,
Secretary.

DEPARTMENT OF THE INTERIOR,
Washington, January 4, 1905.

The CHAIRMAN OF THE COMMITTEE ON INDIAN AFFAIRS,
House of Representatives.

SIR: Referring to my letter to your committee under date of the 10th ultimo requesting, for reasons therein stated, that the time for opening the surplus lands of the Uintah Indian Reservation, in Utah, to public entry be extended to October 1, 1905, I have the honor to transmit herewith, for your consideration in connection therewith, a copy of a communication, dated the 24th ultimo, from the Acting Commissioner of Indian Affairs, forwarding a letter from Capt. C. G. Hall, acting agent of the Uintah and Ouray Agency, Utah, of the 14th ultimo, giv-

ing further reasons why the opening of the said reservation should be postponed.

Very respectfully,

E. A. HITCHCOCK,
Secretary.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, December 24, 1904.

The honorable the SECRETARY OF THE INTERIOR.

SIR: Referring to your communication dated November 13, 1904, in which you advised this office that the Department requested Congress under date of the 10th instant to further extend the time for the opening of the lands of the Uintah Reservation, Utah, to public entry until October 1, 1905, I have the honor to transmit herewith a copy, in duplicate, of a communication from Capt. C. G. Hall, acting agent, dated December 14, 1904, giving reasons why the opening of the reservation should be postponed. The copies are transmitted for such disposition as you may be pleased to make.

Very respectfully,

A. C. TONNER,
Acting Commissioner.

DEPARTMENT OF THE INTERIOR,
UNITED STATES INDIAN SERVICE,
UINTAH AND OURAY AGENCY,
White Rocks, Utah, December 14, 1904,

COMMISSIONER INDIAN AFFAIRS,
Washington, D. C.

SIR: I have the honor to call your attention to the existing condition of affairs on the reservation so far as

the Indians will be affected by the existing law to throw the lands open for settlement in March next.

I have hesitated to make any recommendation in regard thereto, hoping that the conditions would so turn out that the opening could be affected without prejudice to the interest of the Indians, and to this end I have kept the date of March 10, 1905, constantly in view as the time set for the opening, so that the Indians might be ready by that time.

However, I am forced to make the following statements which I believe to be of importance relative to their welfare in the future, and feel it important that your Office should be familiar with the facts beforehand, in order that all due consideration might be placed upon the question before its ultimate disposition:

First. The date set for the opening, March 10, 1905, is at a time when the weather on the reservation is liable to be the most extreme. If an opening is affected at that date all Indians who now occupy lands which would not be allotted before the date of the opening would be required to vacate their homes and occupy their allotments in order to give place to the incoming home seekers, and this would [1185] work a very great hardship on many of the Indians, requiring them to change their homes during severe weather, and to occupy lands which have no improvements nor facilities for protection against the inclement weather. For this reason alone I believe the date as above stated for the opening would be most unsatisfactory.

Second. Owing to the nonreceipt of the plats of the recent survey of the reservation, the work of allotting lands has necessarily been deferred until at present the weather is becoming extremely rigid and will in a few weeks be so cold as to render field work almost impossible. This extreme weather may continue until after the date set for the opening, with very few opportunities

for any field work to be carried on. Some few allotments might be made with little field work, but the vast majority would require the actual running of lines. Owing to the peculiar class of soil to be found, many pieces of ground, while appearing to be excellent land from an agricultural standpoint, will, upon examination, be found to have immediately underlying the surface covering of soil a strata of conglomerate which is absolutely impossible to cultivate. To make an allotment on such land as this would be, in my opinion, worse than no allotment at all.

I believe that if the opening were deferred until some time next fall the work of allotting could be promptly and satisfactorily done before that time, giving the Indians an opportunity to occupy their allotments and construct some permanent shelter for the winter months, at the same time giving them an opportunity to build fences and arrange their allotment, or a portion thereof, for cultivation during the ensuing season.

I submit these facts for your consideration, with the endeavor to make clear the appearance of the conditions as they seem to me. It might be possible that from other considerations it would be best to allow the law to remain as it now stands, but I can not see the advantage of it from my standpoint.

Very respectfully,

C. G. HALL,
Captain, Fifth Cavalry, Acting U. S. Indian Agent.

Mr. STEPHENS of Texas. I am not disposed to raise any point of order, but I would like to say that it might not be the best thing to be done possibly.

Mr. HOWELL of Utah. The chairman of the Committee on Indian Affairs is well aware that the act of 1902 provides that homesteaders may acquire land which is in the public domain. By that act it is provided that

they shall pay a dollar and twenty-five cents per acre for the public domain.

Mr. SHERMAN. The gentleman says it is so, and I have no doubt he is correct.

Mr. HOWELL of Utah. Therefore I can not understand why there should be any loss to the Indians by this.

Mr. SHERMAN. The provision as it is in the bill was drawn after careful consideration by the committee, and agreed to in the committee without division. I think this provision which is suggested or proposed by the substitute should not prevail.

Mr. HOGG. I would like to suggest to the gentleman from New York, while on the subject of fixing September 1 instead of October 1, that there are very great reasons why it ought to be a little earlier. The early snows make it almost impossible for the people to make these settlements unless the time is made a little bit earlier. I would be very willing to support an amendment of that kind.

Mr. SHERMAN. Well, I do not object to having it modified, and yet in my judgment, Mr. Chairman, the land will in fact be opened prior to September under the terms of this bill. I would not strenuously oppose that modification of thirty days in the date, fixing the date at September 1 rather than October 1.

Mr. HOGG. Do you agree to the amendment?

Mr. SHERMAN. I do not oppose it.

Mr. HOGG. Then I move, on line 17, page 28, that the word "October" be stricken out and "September" inserted in lieu thereof.

The Clerk read as follows:

> Page 28, line 17, strike out "October" and insert "September;" so as to read "September 1, 1905."

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The question is on agreeing to the substitute proposed by the gentleman from Utah.

The question was taken, and the substitute was rejected.

Mr. GILBERT. Mr. Chairman, I offer the amendment which I send to the desk.

The Clerk read as follows:

Insert in lieu of the paragraph:

"That the homestead settlers on the lands which were heretofore a part of the Rosebud Indian Reservation within the limits of Gregory County, S. Dak., opened under an act entitled 'An act to ratify and amend an agreement with the Sioux tribe of Indians of the Rosebud Reservation, in South Dakota, and making appropriation and provision to carry the same into effect,' approved April 23, 1904, be, and they are hereby, granted an extension of time in which to establish their residence upon the lands so opened and filed upon until the 1st day of May, A. D. 1905: *Provided, however,* That this act shall in no manner affect the regularity or validity of such filings, or any of them so made by the said settlers on the lands aforesaid; and it is only intended hereby to extend the time for the establishment of such residence as herein provided, and the provisions of said act are in no other manner to be affected or modified."

Mr. SHERMAN. Mr. Chairman, I raise the point of order against the amendment. It changes existing law.

The CHAIRMAN. The gentleman from New York makes the point of order against the amendment. The Chair will hear the gentleman from Kentucky.

Mr. GILBERT. Well, Mr. Chairman, I expect the point of order is well taken, and I do not want to discuss that; but I want to put myself on record as being anxious to extend the time. The six months' limit expires in dead winter, and the amendment can serve no possible purpose except to release these homesteaders from going up there and taking possession in midwinter. It can do no possible

harm to anybody or to the public interest to have that time extended until then, and for that purpose the amendment is offered.

The CHAIRMAN. The point of order is sustained.

Mr. FITZGERALD. I offer the following amendment.

The Clerk read as follows:

Insert at the end of the paragraph:

"*Provided,* That nothing herein contained shall be construed to extend beyond the time fixed by law the time within which any person or persons to locate 640 acres of contiguous mineral lands in lieu of rights in mineral leases as provided under the act of May 27, 1902."

Mr. SHERMAN. Mr. Chairman, I raise the point of order, if one lies against that; I do not know that it does.

Mr. FITZGERALD. Under the act of May 27, 1902, certain persons who had mineral leases or claimed to have them under the provision included for mineral leases were given the right to select within the thirty-days limit fixed for the restoration of these lands to the public domain to locate 640 acres of contiguous mineral lands, and to take them in lieu of all rights under their lease. Now, by the extension of the time fixed for the restoration of this reservation to the public domain their time has been extended until within thirty days of March 10, 1905. It seems to me that whatever rights these persons may have had have been amply protected, and they should not be allowed to continue to prospect on that reservation and to secure preferential rights away beyond what it is ever intended they should be given, to the detriment of all other persons desiring to enter on the mineral lands.

Mr. SHERMAN. I am inclined to think the gentleman in that statement is absolutely correct; but I understand that there is litigation pending now, referred to by some gentleman on the floor here, by one of these com-

panies that had a lease under which a royalty was payable, which it has refused to pay, and a suit has been instituted, as I understand, on the part of the Government to force payment of the royalty. Now, has the gentleman considered how such a provision might affect that suit?

Mr. FITZGERALD. No; I will just call the attention of the chairman of the committee to the language of the original act:

That nothing——

Mr. SHERMAN. I remember that language.

Mr. FITZGERALD. That simply compels those who have the right to locate under the law as it exists at present to make their locations within the time now fixed by law and prevents the extension of the time under the provisions of this amendment.

Mr. SHERMAN. I think you are right as far as the extension is concerned. My only thought was whether any such provision as that might in any way affect pending litigation. They are claiming now, as I understand it, one or the other of these companies, or perhaps both, that their rights vested a year or so ago absolutely, and that because they were not put in possession of what they were given under that act of 1902 therefore they were not called upon to pay any royalties.

Mr. FITZGERALD. I do not believe it would affect any litigation, but I will suggest that a clause be put in to that effect. My purpose is to end the time within which——

Mr. SHERMAN. I am in sympathy with the purpose of the amendment, and I withdraw the point of order.

The CHAIRMAN. The point of order is withdrawn. The question is on agreeing to the amendment proposed by the gentleman from New York.

The amendment was agreed to.

Mr. HOWELL of Utah. I offer the following amendment to be inserted after the word "abridged," in line 8, page 39:

Mr. SHERMAN. To be inserted after the words of the amendment just adopted.

The Clerk read as follows:

> Insert, after the amendment just adopted, the following:
>
> "*And further provided,* That for one year immediately following the restoration of said lands to the public domain, said lands shall be subject to entry only under the homestead, town site, and mining laws of the United States."

Mr. SHERMAN. We have already provided in this amendment that they shall be opened under regulations prescribed by the President, under a proclamation in which he can cover everything. I think we ought not to adopt that amendment.

[1186] Mr. HOWELL of Utah. It seems to me that the amendment is of great importance, for the reason that it limits the choicest lands on that reservation to entry and location by actual home seekers and home builders, and restricts those who might desire to acquire title to land there under any other of the land laws of the United States at least for one year after the opening of the reservation. In my opinion this right should be reserved to actual homesteaders until the better and choicer lands in the reservation have been occupied and settled upon, and it seems to me, Mr. Chairman, that this amendment is obviously an important one and ought to be adopted. It is in line with the general sentiment of the country that our public lands should be reserved for actual home makers. I therefore hope that the amendment will prevail. It can not possibly work any hardship upon the Indians, because in the act providing for the opening of this reservation it is stipulated that homesteaders shall pay $1.25 per acre for the lands homesteaded.

The CHAIRMAN. The question is on agreeing to the amendment proposed by the gentleman from Utah.

The question being taken, on a division there were—ayes 10, noes 25.

Accordingly, the amendment was rejected.

* * * *

CONGRESSIONAL RECORD—SENATE

FEBRUARY 27

[3522] The next amendment was, on page 61, after line 5, to strike out:

> That the time for opening the unallotted lands to public entry on the Uintah Reservation in Utah, as provided by the acts of May 27, 1902, and March 3, 1903, and April 21, 1904, be, and the same is hereby, extended to September 1, 1905, unless the President shall determine that the same may be opened at an earlier date: *Provided*, That so much of said lands as will be under the provisions of said acts restored to the public domain shall be open to settlement and entry by proclamation of the President of the United States, which proclamation shall prescribe the manner in which these lands may be settled upon, occupied, and entered by persons intending to make entry thereon, and no person shall be permitted to settle upon, occupy, or enter any of said lands, except as prescribed in such proclamation, until after the expiration of sixty days from the time when the same are opened to settlement and entry: *Provided*, That the rights of honorably discharged Union soldiers and sailors of the late civil and the Spanish wars or Philippine insurrection, as defined and described in sections 2304 and 2305 of the Revised Statutes, as amended by the act of March 1, 1901, shall not be abridged: *Provided*, That nothing herein contained shall be construed to

> extend beyond the time fixed by existing law the time within which any person or persons to locate 640 acres of contiguous mineral lands in lieu of rights under mineral leases as provided in the act of May 27, 1902.

The amendment was agreed to.

The next amendment was, on page 62, after line 9, to insert:

> That the time for opening to public entry the unallotted lands on the Uintah Reservation in Utah having been fixed by law as the 10th day of March, 1905, it is hereby provided that the time for opening said reservation shall be extended to the 1st of September, 1905, and that the manner of opening such lands for settlement and entry, and for disposing of the same, shall be as follows: That the said unallotted lands, excepting such tracts as may have been set aside as national forest reserve, shall be disposed of under the general provisions of the homestead and town-site laws of the United States, and shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the manner in which these lands may be settled upon, occupied, and entered by persons entitled to make entry thereof; and no person shall be permitted to settle upon, occupy, or enter any of said lands, except as prescribed in said proclamation, until after the expiration of sixty days from the time when the same are thereby opened to settlement and entry: *Provided*, That the rights of honorably discharged Union soldiers and sailors of the late civil and the Spanish war or Philippine insurrection, as defined and described in sections 2304 and 2305 of the Revised Statutes, as amended by the act of March 1, 1901, shall not be abridged: *And provided further*, That all lands opened to settlement and entry under this act remaining undisposed of at the expiration

of five years from the taking effect of this act shall be sold and disposed of for cash, under rules and regulations to be prescribed by the Secretary of the Interior, not more than 640 acres to any one person. The proceeds of the sale of such lands shall be applied as provided in the act of Congress of May 27, 1902, and the acts amendatory thereof and supplemental thereto.

The amendment was agreed to.

The next amendment was, on page 63, after line 18, to insert:

That before the opening of the Uintah Indian Reservation the President is hereby authorized to set apart and reserve as an addition to the Uintah Forest Reserve, subject to the laws, rules, and regulations governing forest reserves, such portion of the lands within the Uintah Indian Reservation as he considers necessary, and he may also set apart and reserve any reservoir site or other lands necessary to conserve and protect the water supply for the Indians or for general agricultural development, and may confirm such rights to water thereon as have already accrued: *Provided*, That the proceeds from any timber on such addition as may with safety be sold prior to June 30, 1920, shall be paid to said Indians in accordance with the provisions of the act opening the reservation.

The amendment was agreed to.

* * * *

[3751] INDIAN APPROPRIATION BILL

The PRESIDENT pro tempore laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H.R. 17474) making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June 30, 1906, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. STEWART. I move that the Senate insist upon its amendments and agree to the request for a conference.

The motion was agreed to.

By unanimous consent, the President pro tempore was authorized to appoint the conferees on the part of the Senate; and Mr. STEWART, Mr. MCCUMBER, and Mr. DUBOIS were appointed.

* * * *

CONGRESSIONAL RECORD—HOUSE

MARCH 1

[3786] INDIAN APPROPRIATION BILL

The SPEAKER pro tempore laid before the House the bill (H. R. 17474) making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June 30, 1906, with Senate amendments thereto.

Mr. CURTIS. Mr. Speaker, I ask unanimous consent that the House disagree to the amendments of the Senate, and ask for a conference thereon.

The SPEAKER pro tempore. Is there objection?

Mr. WILLIAMS of Mississippi. Mr. Speaker, I understand that the statehood bill has been put as an amendment on to this bill?

Mr. CURTIS. No; and I will say to the gentleman from Mississippi [Mr. WILLIAMS] that no important amendment will be agreed to by the House conferees until after it has been agreed to by the House.

Mr. WILLIAMS of Mississippi. Very well; that is all right.

Mr. ROBINSON of Indiana. Mr. Speaker, reserving the right to object, I desire to state that the gentleman

from Minnesota [Mr. LIND], who is not present, desires to object, and until he returns I will have to interpose objections.

The SPEAKER pro tempore. Objection is made. The committee will resume its session.

* * * *

[3791] INDIAN APPROPRIATION BILL

Mr. SHERMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill H. R. 17474, the Indian appropriation bill, and that the two amendments of the Senate [3792] thereto be disagreed to, and that we ask the Senate for a conference thereon.

The SPEAKER. The gentleman from New York asks unanimous consent to take from the Speaker's table the Indian App. bill and disagree to the Senate amendments and ask for a conference. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

The SPEAKER announced the following conferees on the part of the House: Mr. SHERMAN, Mr. CURTIS, and Mr. STEPHENS of Texas.

* * * *

CONGRESSIONAL RECORD—SENATE

MARCH 2

[3866] INDIAN APPROPRIATION BILL

Mr. STEWART submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 17474) "making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June 30th, 1906, and for other purposes," having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 9, 11, 14, 15, 16, 17, 19, 21, 23, 24, 28, 34, 35, 38, 42, 43, 46, 47, 50, 51, 53, 55, 56, 57, 58, 59, 60, 61, 62, 64, 69, 91, 95, 96, 102, 104, 107, 108, 113, 119, 120, 124, 125, 133, 136, 138, 139, 142, 144, 145, 149, 150 and 153.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 4, 5, 6, 8, 10, 13, 18, 22, 25, 26, 27, 36, 41, 44, 45, 48, 54, 63, 65, 66, 67, 68, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 92, 101, 103, 105, 106, 110, 112, 121, 122, 123, 126, 127, 128, 129, 130, 131, 132, 134, 136, 137, 141, 146, 151, 152; and agree to the same.

* * * *

[3868] Amendment numbered 93: That the House recede from its disagreement to the amendment of the Senate numbered 93, and agree to the same with an amendment, as follows: In line 6 of said amendment, after the word "five" insert the words: "unless the President shall determine that the same may be opened at an earlier date"; and the Senate agree to the same.

Amendment numbered 94: That the House recede from its disagreement to the amendment of the Senate numbered 94, and agree to the same with an amendment, as follows: At the end of said amendment add the following:

"That the Raven Mining Company shall, within sixty days from the passage of this act, file for record, in the office of the recorder of deeds of the county in which its claims are located, a proper certificate of each location; and it shall also, within the same time, file in the office of the Secretary of the Interior, in the city of Washington, said description and a map showing the locations made by it on the Uintah Reservation, Utah, under the act of Congress of May twenty-seventh, nineteen hundred and two (Statutes at Large, volume thirty-two, page two hundred and sixty-three); and thereupon the Secretary of

the Interior shall forthwith cause said locations to be inspected and report made and if found to contain the character of mineral to which said company is entitled by the act of Congress aforesaid and that each of said claims does not exceed the size of a regular mining claim, to wit, six hundred by fifteen hundred feet, he shall issue a patent in fee to the Raven Mining Company for each of said claims: *Provided further,* That the Florence Mining Company entitled under the act of Congress approved May twenty-seventh, nineten hundred and two, to the preferential right to locate not to exceed six hundred and forty acres of contiguous mineral land in the Uintah Reservation, Utah, shall within sixty days from the passage of this Act file in the office of the recorder of deeds of the county in which its location is made a proper description of its claim, and it shall within the same time file in the office of the Secretary of the Interior said description and a map showing the location made by it on the Uintah Reservation, Utah, and thereupon the Secretary of the Interior shall forthwith cause said location to be inspected and report thereon made, and if found not to exceed six hundred and forty acres he shall issue a patent in fee to said Company for the said land: *And provided further,* That the extension of time for opening the unallotted lands to public entry herein granted shall not extend the time to make locations to any person or company heretofore given a preferential right, but the Raven Mining Company and the Florence Mining Company pending the time for opening to public entry the Uintah Reservation shall have the right of ingress and egress to and from their respective properties over and through said reservation."

* * * *

CONGRESSIONAL RECORD—HOUSE

[3917] Amendment numbered 93: That the House recede from its disagreement to the amendment of the Senate numbered 93, and agree to the same with an

amendment, as follows: In line 6 of said amendment, after the word "five" insert the words: "unless the President shall determine that the same may be opened at an earlier date"; and the Senate agree to the same.

Amendment numbered 94: That the House recede from its disagreement to the amendment of the Senate numbered 94, and agree to the same with an amendment, as follows: At the end of said amendment add the following:

"That the Raven Mining Company shall, within sixty days from the passage of this act, file for record, in the office of the recorder of deeds of the county in which its claims are located, a proper certificate of each location; and it shall also, within the same time, file in the office of the Secretary of the Interior, in the city of Washington, said description and a map showing the locations made by it on the Uintah Reservation, Utah, under the act of Congress of May twenty-seventh, nineteen hundred and two (Statutes at Large, volume thirty-two, page two hundred and sixty-three); and thereupon the Secretary of the Interior shall forthwith cause said locations to be inspected and report made and if found to contain the character of mineral to which said company is entitled by the act of Congress aforesaid and that each of said claims does not exceed the size of a regular mining claim, to wit, six hundred by fifteen hundred feet, he shall issue a patent in fee to the Raven Mining Company for each of said claims: *Provided further,* That the Florence Mining Company entitled under the act of Congress approved May twenty-seventh, nineteen hundred and two, to the preferential right to locate not to exceed six hundred and forty acres of contiguous mineral land in the Uintah Reservation, Utah, shall within sixty days from the passage of this Act file in the office of the recorder of deeds of the county in which its location is made a proper description of its claim, and it shall within the same time file in the office of the Secretary of the Interior said description and a map showing the location made by it on the Uintah

Reservation, Utah, and thereupon the Secretary of the Interior shall forthwith cause said location to be inspected and report thereon made, and if found not to exceed six hundred and forty acres he shall issue a patent in fee to said Company for the said land: *And provided further,* That the extension of time for opening the unallotted lands to public entry herein granted shall not extend the time to make locations to any person or company heretofore given a preferential right, but the Raven Mining Company and the Florence Mining Company pending the time for opening to public entry the Uintah Reservation shall have the right of ingress and egress to and from their respective properties over and through said reservation."

And the Senate agree to the same.

* * * *

Proclamation of September 1, 1906, 34 Stat. (LD 132)

[3228] September 1, 1906

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS, the Secretary of the Interior, on July 11, 1905, under the authority of the act of June 19, 1902 (32 Stats., 744) amended by the act of March 3, 1903 (32 Stats., 982, 998), and March 3, 1905 (33 Stats., 1048, 1069), reserved certain lands in the former Uintah Indian Reservation in Utah, including Lots 2 and 13 in Sec. 10, T. 2 S., R. 1 E., containing 8.80 acres, for the Uintah Indian Grazing Reserve; and whereas, the President of the United States in his proclamation of July 14, 1905, opening the lands in the said Uintah Reservation to settlement and entry, excepted from such opening the lands included in said grazing reserve; and whereas one David Eskelson was, on September 26, 1905, erroneously allowed to include in his [3229] homestead entry No. 806, the said Lots 2 and 13, on which lots he has placed valuable improvements, and which, by virtue of their small area and being entirely segregated from the balance of the grazing reserve by the claims of the Raven Mining Company, are of no value as a part of said reserve:

Now, therefore, I, THEODORE ROOSEVELT, President of the United States, by virtue of the power in me vested, do hereby declare and make known that the lots numbered 2 and 13 of Section 10, Township 2 S., of Rage 1 E., Uintah Special Meridian, in Utah, are hereby restored to the public domain.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington, the 1st day of September in the year of our Lord, one thousand nine hun-

dred and six, and of the Independence of the United States the one hundred and thirty-first.

[SEAL] THEODORE ROOSEVELT

By the President:
ALVEY A. ADEE
Acting Secretary of State.

Minutes of Council Meetings between Inspector James McLaughlin and Ute Indians (May 18-23, 190[illegible]) (JX 162)

Minutes of Council held at Uinta Agency, Whiterocks, Utah, by James McLaughlin, United States Indian Inspector, with the Uinta and White River Ute Indians belonging on the Uinta Reservation, Utah, for discussion and consideration of the provisions of the Act of May 27, 1902, affecting said Indians, and as amended by the Indian Appropriation Act approved March 3, 1903.

Council convened Monday, May 18, 1903, at 2 o'clock p.m. with 127 Indians present and in attendance. Henry Harris, Happy Jack, Henry Jim, and Willie Duncan, Interpretors. John F. MacKey, Stenographer.

Capt. W. A. Mercer, Acting U.S. Indian Agent:

My Friends, Last winter, Congress passed a law which affects your interests. This law, the Secretary is compelled to carry out, and one of the things he is obliged to do is to send an Inspector to you to get your vote on the question of allotments. He has selected for that purpose one of his best men, and one who has had many years experience among the Indians as an Agent and as an Inspector, and who understands the needs of the Indians as well as any man in the country, and above all, is a friend of the Indian race. He has given to your interests much hard study that he may advise you right. I have known him for many years, and he is a good man for the Indian. I want you to understand that the Secretary and the Commissioner are your friends in this matter as well as all others, and want to do the best they can for you, but all the Secretary can do now is to send to you a man who will explain to you all about the law, and who has a straight tongue, so that what he tells you, you can believe, and what he advises you to do, you can depend upon as the best for your interests and the welfare of your people now and in the future. I want you

to listen to him, to ask him all the questions you wish, and then when he has said all he has to say, to get together here or in your camps and to talk over among yourselves all you have heard, and tomorrow, or when you have made up your minds what to do, come together here again and let him know how you feel about the law, and to be ready then to vote on the question of allotments. What you say will be taken down and sent to the Secretary to read. The Inspector will now talk to you. He comes direct from your friend the Secretary. His name is Inspector McLaughlin and most of you have met him before.

Inspector McLaughlin:

My Friends, I am pleased to see such a large representative gathering, and I shake hands with each and every one of you here assembled.

I have been sent here by the Secretary of the Interior to submit to you for your consideration and decision, the provisions of the act of Congress of May 27, 1902 and the amendments thereto as contained in a provision of the Indian Appropriation Act approved March 3, 1903, which provisions are with reference to the lands of your reservation and involve your interests.

The proposition which I am going to place before you is one of great importance to you people. and I trust that you will consider it carefully and decide the question wisely. I shall endeavor to explain every feature of the enactment involving your interests, and which is now a law, that you may understand it very clearly.

Having visited your Agency two years ago, we are not entire strangers to each other, and it is my hope that our councils be conducted in a spirit of friendliness. We meet here as friends and should discuss all questions coming before this council in a friendly manner, so that whether you consent to the provisions of said acts of Congress or not, we will part as friends.

I will now read the provisions of the Acts of Congress referred to and after reading them through, will then go

back to the beginning and explain them sentence by sentence. (Reads the Act)

Now, my friends, I wish to explain this matter very carefully. I have just read the Act to you and want you to ask me any questions in reference to it you may desire so that you will be brought to understand every phase of the law.

I want you to understand that no official of the Department is responsible for this legislation. Congress makes the laws and we all have to obey them, and it therefore becomes the Secretary's duty to carry out this law.

Until quite recently, the policy of our Government has been that Indians had unquestioned right to all lands of their respective reservations, but a recent decision of the Supreme Court of the United States is that Indians have no right to any part of their reservations except what they may require for allotments in in severalty or can make proper use of.

This was the decision of the Supreme Court on January 5th last in the case of a Kiowa Indian of Oklahoma named Lone Wolf, which involved the question of the Indian's title to lands. The court decided that the Government had the right to legislate in regard to the surplus lands of Indians without consulting the Indians concerned. But if they take allotments, they cannot be disturbed,—their title to the lands allotted to them being secured to them by law. By that decision of the Supreme Court, Congress has the legal right to legislate in regard to Indian lands, and Congress has enacted a law which requires you to take your allotments. The Secretary of the Interior and the Commissioner of Indian Affairs are very anxious that you consent to the provisions of this Act so that you may get the best of your reservation lands for yourselves. The Secretary of the Interior and the Commissioner of Indian Affairs do not wish to impose any hardship on you people, and having your best interests at heart, wish you to take the best lands for yourselves and children. The question is a very important one

to you. If in my power, I would endeavor to get easier conditions for you, but I have no discretion in the matter and the law must be complied with.

After you have taken your allotments the remaining land is to be opened for settlement, and every person who takes any of this remaining land must file upon it under the homestead law and pay $1.25 per acre for it, and the proceeds will be for your benefit. The expenses of alloting your lands will be charged to that fund, and the remainder will be expended for the benefit of the Uinta and White River Utes in the discretion of the Secretary.

I do not know, my friends, that I can make this any plainer. The interpreters may not be able to understand fully, but they are doing the best they can, and I want you to consider this very carefully. I am here for this business only, and I hope you will take time and consider it very carefully. I hope to have some other interpreters here tomorrow and perhaps you may be able to understand them better. I have been thirty two years with the Indians. I know nearly all the Indians in the country and have visited nearly every tribe in the United States. They know that I tell them the truth and I am never ashamed to return to a tribe and look them in the face. In talking with Indians, I have but one tongue. Any question you ask me, I will answer truthfully. I do not believe in giving honied words to people that will deceive them and lead to disappointment. I am here to obtain the consent of you people to accept allotments as specified by the law, 80 acres to every head of a family and 40 to each other member, and 250,000 acres pasture land south of Strawberry River for use of your cattle and horses, and the remaining land, after the 1st of October 1904, to be opened for settlement to homesteaders who must pay $1.25 per acre.

My friends, if I had my choice in this matter I would be glad to see you occupy all of this country but this is impossible. The White People are coming into the country and no power can keep them out. The only land the

Indian is sure of is that which he takes as his allotment. By accepting allotments you have the choice of the very best land, and the coming of White Men to take the land near yours will enhance the value of your land: the land you take will be more valuable on this account. As a friend to the Indian and a friend to you people, I would advise you to accept the provisions of this Act. The land will soon be surveyed, bids for same being already invited by advertisements, though it will not be entered upon right away. I want you to take time to consider what is best for you to do.

My friends, this is a matter that you may not understand fully to day, and I do not expect it. I would rather wait till tomorrow morning that you may ask me any questions you desire made clear to you. I have now placed before you the Act of Congress to let you know the nature of my business here at the present time. I hope you will consider well what I have said, and if you do not understand, I want you to ask me any questiaons you wish. Here is a gentleman who is taking down every word I say and every word you may say will be recorded by him, and I will leave a copy of all our talk here with your Agent. The other copy will be sent by me to the Secretary, and the Secretary will read all we say. If any of you should forget what I say you can call at the Agent's office and the Agent can show you the copy he will have there.

I do not want to say too much to day so that you might forget or get mixed. so I think we had better adjourn till tomorrow at ten o'clock, and I hope you will be able to tell me then what you think of the proposition. I want you to stay here at the Agency and your Agent will furnish you with something to eat. You should not go home for two or three days yet, but come in here every day to talk with me. As I said in the beginning, this is a matter of great importance and I hope you will be patient. If you wish to ask any questions I will listen to them, or if you wish to talk together first I am ready to comply with your wish.

Tim Johnson:

We would like to meet some place, and we want to all talk together next Sunday.

Inspector McLaughlin:

That is too long to wait. I dont want to hurry you and I want to explain everything fully as questions may arise, and you should stay here so that I can explain everything you do not understand clearly, then you can go where you choose and council as much as you wish.

Tim Johnson:

There are more Indians than we have here now and we want to see them about it.

Inspector McLaughlin:

I must send in my report by June 1st, in twelve days from now. It is too long to wait a week for our next meeting. I Will not hurry you, but we ought to get through this business by next Sunday. You ought to stay here so that you can ask me questions and understand the matter fully. The Department has authorized your Agent to give you rations. This is always done on such occasions. Other Indians will be coming in and you had better all stay here so that as many as possible may be here to talk to me, and also, among yourselves here about this matter. All you Indians ought to be together here to talk it over and consider it. That is the best way.

Wanrodes:

We don't want to hurry. Some Indians are not here. May be one week before all will be here. We want all Indians here.

Inspector McLaughlin:

I believe that it will take a week, and I want you to take all the time you need. I am very much pleased to see such a large gathering at this first council.

The council adjourned at 4-30 p.m.

Council reconvened at 2 p.m. Tuesday the 19th, with about 120 Indians in attendance. John Reed interpreting.

Inspector McLaughlin.

My friends, we have met again and I am very glad to see so many of you assembled here to day. I explained the object of my visit here very carefully yesterday, and I hope that you all understand it fully. If there is anything that you do not understand clearly, I wish you to ask questions so that I can explain it to you.

As I said yesterday, this is a very important matter that is presented for your decision, and I hope that you will use care and good judgement in deciding upon it. This is a matter that is of greatest importance for your future welfare and is one that you should consider without prejudice. While it is your duty to consult and talk this matter over among yourselves, you should not listen to the advice of persons who are prejudiced against your best interests. I am here to present this matter to you and answer all questions you may ask me and I am now ready to hear what you may have to say.

Tim Johnson (White River Ute)

You are here now to ask these Indians a question. What do you want to ask about? We hav'nt got a whole lot of things to talk about with you. This land is ours and we hav'nt got it for sale. The Indians say that they want to keep it and hold it if they can. When they put us on the reservation, it means the President told us to hold this reservation and they were not to open it. He said "I put you on that land, and I want you to stay on it." This whole land used to belong to the Indians at one time.

That is the reason I talk so. He is not going to break this reservation and settle anyone upon it. I was born here on this land and we do not want to give it up.

All the Indians all over the country listen to what Washington talks about, and that is the reason they do

not want to get into any trouble like that. People say that they are friends of the Indians and they think they can keep on talking to us all the time. That's the reason you ought not to come asking them about their land here. The president made this reservation here for the Indians and it ought not to be opened up. The reason they want it is on account of these mines. They got mines on the reservation. The Indians think that is why they want it and that is why the Indians do not want it ever allotted. They made this treaty a long time ago. This mining right some Whites got over here and the Indians signed it. That is all right. (Places document on the table) We had a talk here and the Whites and Indians had to be heard.

Inspector McLaughlin:

I wish to speak to you people in reply to my friend Tim Johnson. My friends, I explained this matter to you yesterday so carefully that I thought you all understood it. I explained yesterday to you people that this was not a matter for even the Secretary or Commissioner to pass upon. It is already an act of Congress. Now my friends, Tim Johnson has raised a question that I am very glad to have brought up. He says there was a large tract of country set apart for you people, that you were to have for your selves for all time. Now my friends, you are only one tribe of a great many tribes of Indians in the United States. Your reservation is only one of a great many similar reservations that are scattered over this country. When the Whites discovered this country they first began settling on the Atlantic coast and gradually moved westward, pressing farther and farther west. Then people began coming eastward from the Pacific coast until the advance guards of the white settlements met and there is now no frontier. When there was a great deal of vacant land, there were large tracts set apart for the Indians. The reservations were made large in days gone by when you could make a living by hunting and large reservations were then necessary and possible, but with

the tide of immigration coming into the country, game has become scarce and you can no longer live by hunting: and therefore you must take to agriculture to make a living for yourselves and families. As I told you yesterday, the decision of the Supreme Court is the highest authority in this land, and the Supreme Court has decided that the sovereign right of ownership of land is in the Government and the Indian is entitled to only what land he can make use of. Now my friends, there is no other government on this globe that has been so generous with a conquered people as our Government has been. It gave the people found inhabiting this country large tracts of land to live on till they reached a fair degree of civilization. Now my friends, remember that the President, the Secretary, and the Commissioner are only executive officers. They are to execute the laws made by Congress. I wish to explain to you what Congress is. Congress is the representation of the people of the United States. The people elect the members of Congress, and they make the laws. Congress is the voice of the people speaking through their representatives. Congressmen are elected every two years. Every citizen of the United States is a voter and has a voice in saying who will be his representative and as soon as you people have your allotments, you will have a voice in saying who will be your representatives in Congress. Now, Congress has enacted a law affecting you people. It says you are to have lands allotted to you and I have been sent out here to explain the Act and obtain your consent to accept your allotments. My friends, I want you to understand distinctly that I am not here of my own accord. I have been sent here by the Secretary of the Interior to place before you the act of Congress of which I have been speaking to you.

The Secretary under the law, is required to carry this into effect. He was obliged to send myself or some other Inspector to see you people and talk to you about it. I am to ask you to accept allotments of 80 acres for each

head of a family of irrigable land, that is land that can be watered, and 40 acres to each other member of the family. If the consent of you people cannot be obtained by June 1st, that is in eleven days from now, the Secretary must proceed to allot the lands to you under the Act, all the remaining land after the allotments are made, to be opened for settlement, the title to be acquired by homesteaders under the homestead Act, the price to be paid by the homesteaders of $1.25 per acre. Now my firiends, I want you to understand that this is not the action of the Secretary or the Commissioner. It is the Act of Congress. Congress does not intend to have large tracts of land held by Indians in future of which they make no use. But they do not desire or intend to take this land from Indians without compensating them for it. Under the late decision of the Supreme Court, which is the interpreter of all the laws, Congress has the power to enact such legislation. I want you to understand, my friends, that I am known among the Indians for telling the truth. I will answer all your questions truthfully. I will not misrepresent anything nor use misleading words. And I say to you as your friend, that the law must be complied with and will be carried out. My friend, Tim Johnson, has a wrong idea regarding this matter and I want to correct it before it is accepted and believed by you Indians. The policy of the Government in regard to Indian reservations has changed during the past year. There will be no more treaties made with Indians. The surplus lands will be opened to settlement but the Indians will be protected in their homes. This question, my friends, may be somewhat cloudy and I expect you to ask questions and I hope you will ask them in a friendly way. All of your reservation, outside of your allotments, and the tract set apart for pasture, will be opened for settlement upon which Whites will come, and the proceeds will be placed in the United States Treasury to your credit and expended for your benefit in the discretion of the Secretary of the Interior.

Capt. Joe:

I want to talk just a little bit to you. The Indian reservation was not put down for nothing. It is held down by something heavy. A soldier man, like our Agent here, put this reservaton here. He was a general of the army who talked with us and put this reservation aside for us and said it was put aside for the Indians: and the Indians were put upon it. He told Brigan Young and his Mormons that he did not want them to come here,—that this reservation was for the Indians. He said that to Soveyet and to another chief, old Tabby, and another one, old Antero. They are all dead and gone now, I am the only one here that heard that treaty. My friend, you are a good man, but I don't want you to talk to us about opening our reservation. I want to hold our reservation and keep it for ever from the White people. We want to keep White people off the reservation. This is the Indian's land. There is only one land here and that is the Indian's land and it belongs to the Indians. This reservation here was put aside for the Indians, and here now, is a school house for the children to be educated in. This reservation was not put here for nothing. It was put here by a chief from Washington. It was not for nothing that he was sent here to make this reservation, and he was a war chief. For some time past it was not good here,—but since this new Agent came, I feel happy and my heart is good. It was not good when Myton was Agent here. Myton let the White men come here, and I think it was Myton who let the sheep men lease the reservation. You are our friend. You come to bring us news and we want you to let it end now. We dont want to listen to that kind of talk. We don't want this reservation opened, and we do not want White people coming in among us. Before we had this new Agent, they had a talk like this and I am the only one left that talked that time. Here are the Uncompaghre Indians here and the White River Indians, and the Uinta Indians and we want to hold our reservaton. There is a line from here on to top of those moun-

tains where the Indians living on the reservation can go any place, and that is good. We have these mountains, and streams and don't want anybody coming on this reservation. That's why I have talked here, and that's all I am going to say now.

Succioff:

This land is ours; it is not for nothing; this is where our children were born and raised. That is the reason we do not want this reservation thrown open. We do not want anybody cutting it off. Is there anybody here who has made the land? Who is it? Let him come here and talk. We are not going to give up any of this reservation away, nor have it cut in little pieces. It is ours, and we are going to keep it. We know our reservation line, and the White Man knows it.

Appah, (White River Ute)

You are my friend. What have you been telling these Indians? I do not like that. When the Indians were given this land and when they pulled the chain over and surveyed it, they told us that this land would be ours always and that it would never be opened. That is the reason we do not know anything about opening our reservation. The Indians have lots of horses, and when you tell us that we must take farms, we do not like that on account of our horses. I have a father in Washington. It is on account of this reservation that I have that father. That is the reason the Indians think of their father in Washington upon whom they depend for these things. We do not listen to any White Man out here. We do not listen to the Mormons here. That is the reason I do not like what you tell us.

Sowsonocutt, (White River Ute)

They did not put us here on this reservation for nothing. They put us here a long time ago. That is how we came on this reservation. That's the reason we like this

land here and we are holding it tight. All this land belongs to us and this reservation here belongs to the little children growing up We do not like what you tell us when you talk about giving us little pieces of land. It is not good. The Indians have lots of cattle and horses. When we take the Government's little pieces of land, how are we to run our horses inside on little pieces of land?

When I was in Washington, I saw my father, and he told me he would never put us out of this reservation. The Commissioner told me:— "When anybody comes to ask for your reservation, do not listen to him." "Don't let anyone who talks like that come into your house." There is just one resrvation left,—the reservation here: that is our land. That's all.

Tercas:, (White River Ute)

I did not grow up here for nothing. This land here belongs to me. I do not want to sell any of it off.

Capt. Parank (Uinta)

I do not want you to steal my money. I heard all you had to say. I Heard you, and I think I understand you all right, but I do not believe what you tell me. I do not like it when you talk to me. This land I am talking on, I have grown up upon. Long time ago, I did not talk any, but now I talk. I have a father, Washington, I call him. He has me for his boy on account of this land. I am an Indian, I think of what they told us long time ago, when they gave us this reservation. I do not know anything about selling timber. I do not know anything about selling minerals on the reservation. This land here belongs to the Indians. They were put on it a long time ago. If Washington has put his name down on this paper for opening the reservation, I am not going to listen to it. I am telling you now the truth. That is the reason I keep thinking about Washington all the time even if you are here talking to me.

Game, (Uinta)

I see you and you see me. You travel all over the country. You are here now to look at this Indian reservation. Now, I am going to talk about our reservation and we are not going to talk about it for fun. We are just going to talk about one thing. We have one country, one land. That is the reservation and we do not want it opened up. We want to hold our own reservation here just as it now is. There are people on this reservation who own it. We are not going to talk about opening our reservation. We were born here on this reservation. We will hold the country here around. We like this reservation here and we want to keep it. We do not know anything about selling it. Here is where the children are growing up. We do not want to give any of the water away or let any of it go.

Capt. Woods, (Uinta)

I like this reservation, this land. I hold on to it tight. I do not want to let it go. This land here don't belong to the people back there who make the law: it belongs to these people who have black hands. They do not want to see this reservation opened. We like this reservation here, and we want to keep it. We do not want to give any of the water away or let any of it go.

Wapsock, (Uinta)

We do not want this reservation line changed in any way. We want to keep it now just as it is; that's the way the other reservations are. All the other reservations belong to Indians, and that's how the Indians are on this reservation. That's the reason we have an Agent here to watch it for us. All other land is same as here and they raise their children on it. They are talking back there, and you come and tell what they are talking about. These people here are talking to you now and tell you that we do not want to have the reservation thrown open. We

have an Agent here to watch it. The Indians do not understand anything about being put on a little farm. Even if they talk about that in Washington, we do not like it. They tell you to come here and talk to us and let us talk about it. Now we do not like that even if they are our friends. We have a school house and our children are going to school. They were born on this reservation and it belongs to them.

Little Jim (White River Ute)

It is all right that we are talking here. Our Agent is listening to what we say. You are here telling us our business, and that is good too. You are telling about what they are talking in Washington and that is good. I do not say that you are telling this yourself. Even if they do say in Washington, that our reservation is to be thrown open I do not like it. I do not blame the Indians for wanting to hold their reservation. They raised their children here and they want to keep it. That is the reason the Indians do not want to sell it. Our land here is just as if fenced around with iron and we do not want to break it now. It is heavy and we do not want it taken up. We do not want to give any of it away. We have an Agent here. They said to our Agent: "You go there and watch for the Indians." He is the Indian's new Agent. I am not much of a talker, I have seen you before, and I know you.

Shatkwitch (White River Ute)

The Indians don't like the opening of this reservation,—not only I, but all the rest here. We do not understand anything about this selling of our land. Here is our own reservation line over here. Here is water running from both ranges of mountains here. That belongs to the Indians. The Indians here are holding it back because they like it. I do not like this making ditches over the reservation. . . How are our horses going to range? We do not

know anything about selling this land. That is the reason I like it and I am holding it tight. I do not want any of it cut off. The Indians here like it. We need all that country down there for our horses to graze in, and the horses come to the streams for water. That is the reason I like this land. I do not want to sell it.

George Washington, (Uinta)

I am going to talk now. I do not talk very much in council. Whenever we council, I do not talk. I just sit and listen. All the rest of the Indians here have talked in council.

The one who always did our talking is not here,—old Chief Tabby. Tabby told me,—"Whenever White Men come here to talk about opening the reservation, do not listen. That is the reason I talk now. I am all alone, I have no relations. All I am thinking of now, is Washington. My heart is right. I do what Washington wants me to do. Washington told me to put my children in school to get an education, and I did it. I have my children in school. Washington says, "When your boys grow up, this land will belong to them." But what you tell me scarces me I want to die without having blood on me. I came from away over to this land here and I like this land. I hold it. I have no money: I am a poor man. I have minerals here in the mountains but even if I have, I am poor. That is the reason I talk to you. I have a father in Washington, but I am poor. I have no fence running around my farm. What you tell me here as coming from Washington, I am not going to pay any attention to. I do not want to talk about it. That is what I tell you now. We will let it go and let Washington do what they wish.

Warren, (Uinta)

My friend, I am the only old man now, all the other old men are dead: This land is what I am keeping for myself. We are keeping this water for ourselves. We are

holding on to this land. From the top of the mountains streams are running both ways. The other side belongs to the White Man. This country near the Duchesne we are keeping for ourselves. This wood we are keeping for ourselves. We have corrals all over the mountains here: that is where we brand our horses. My friends came up here with me and there are not many of us left. Here in this land are our relatives and children covered over with earth. That is what makes this land so heavy. Tabby, the chief of our land is there. I have heard somebody talk ever since I grew up: now I am an old man. There are children on this reservation. I am old.

That is the reason I have this reservation here. I am not going to give it up to the White Man. It is not buckskin or deer's hide, and I do not want to sell it. I do not want any of this land to be given up. I have it in my grip and I do not want to sell it. Here is the school filled with children. They will grow up soon, and the land will belong to them. They will have homes over the reservation. I don't want to be afraid of anything on this reservation.

Red Cap. (White River Ute)

This Agency is here and it was not put here for nothing. There are a lot of agencies but there is only one Washington. This reservation is heavy. The Indians have grown here and their bones are under the ground, covered over with earth. That is the reason it is so heavy. Those people in Washington, they shake my hand, but they do not want me to throw my hands away. My heart is straight. The Indians have understood what they have heard, and they hold this reservation, and they do not want any of it cut off. We want this reservation line to be just as it is. I hold it for my children, and I don't want to part with it. I have heard talk about selling before. Now that you have come here I am going to talk, as my father, Chief Tabby is dead. We do not like your talk about throwing it open. How is it that we lose our reser-

vation line? Where is it gone? I want everything on this reservation to be good and I don't want everyone coming in here. The reason I am talking so is because I am on the land here, which has been surveyed out for us. There is the Price road; it is the gate of this reservation. I do not want any kind of people to come in on this reservation. What you said about alloting this land, I do not like that.

Big Joe. (Uinta)

What the Indians say is that they want to hold this reservation. That is the truth. They all want to keep it. We want to keep it for the children in school. It is here they are going to live after a while. That is the reason we do not want the reservation to be opened. This has been in my mind a long time and I knew it was coming. The way it is now, the Indians can go where they like. That is good ,and we want it to be that way. Everything is good now, the way it is. Here is our wood on the mountains. I understand why it is that you are here. I was talking to my father in Washington. The Commissioner told me about it. We talked to each other. At the time when we were talking, I asked the Commissioner "How many are there of you?" I want to find out how many there are of you. The Commissioner said, "What is the matter with your reservation? You have a line running on your reservation and it cannot be changed." I heard all the Commissioner had to say.

Black Hawk, (Uinta)

I have listened to what you have said to these people. I can understand some of what you say myself. I do not like it. After you allot the land and sell it, I do not like that. I have no sense, and I know it, I just play with this land, but when I had money, I threw it away. I am here on this land. That is what holds me up. I do not want you to steal it from me. I do not know anything about

the Secretary or the Commissioner or Inspectors, and I do not know about any of this.

Ebenezer (White River)

That is all right. These fellows here are holding their reservation. It is the truth. I have been put on this reservation here. They tell me, "You raise what you want to eat." and I do that. Washington says that, and I do what Washington tells me to do. I put the children in school. This is my land. I am holding this wood back to burn. These streams of water here, I am holding them. We want them all. These Agency buildings belong to Washington. I am on this reservation, and I do not want this land thrown open.

Inspector McLaughlin.

Now my friends, I have listened to you and every word has passed into my ears. Every thing that you have said and everything that I have said is recorded by the stenographer here, and one copy will go to Washington where it will be read by the Secretary and Commissioner, and one copy will be left with your Agent for future reference as required. This is a transcript of all that was said yesterday as recorded here. (Holds up transcript of first day's council) What each of us said is here.

Now my friends, I have listened patiently to what your speakers said. I want to say a few words in reply, and hope that I will not be interrupted until I conclude. When I get through, I will be glad to hear any of you speak again. I have listened attentively to what your speakers said and I want to explain some things which seem cloudy in your minds. While I am surprised to find you so united in your opposition to the Act of Congress, I am at the same time, glad to hear you express your opinions. I said to you yesterday that we must be patient with each other, —I with you, you with me, so that you will understand everything the Secretary wishes to convey to you. A number of you speakers have said that you do not like my

words. My words to you have been truthful. If I had presented the matter differently or in any other way I would not have been stating to you what I was delegated to say. If I said things pleasing to your ears which were not truths the Secretary would be very much displeased with me.

Now my friends, the statements of your speakers have convinced me that you do not understand what I have said. From your speeches you are evidently laboring under a mistake by thinking that I am here to negotiate an agreement with you people. You seem to be impressed with the belief that I am sent here to make a treaty with you for the opening of your reservation. You lose sight of the fact, or do not understand, that this which I present to you is already a law of Congress. I am here to submit this law to you and explain every feature of it that you may understand, so that you may consent to take your allotments. One of your speakers said that every Indian tribe in this country had a reservation. That was formerly the case, but is not so now. There are now many former reservations that have been opened and the Indians have taken their land in severalty and live like white men in every respect. They have homes and farms and they can go to the polls and vote for Congressmen and county officers just as the white men do. Where that condition has been brought about we find the Indians have advanced more rapidly; they have become like their white neighbors in almost every respect. Now you are about to meet that condition on your reservation. Your reservation is going to be opened under similar conditions that governed the reservations in the Indian Territory, Oklahoma and elsewhere.

I was on the Kiowa and Comanche reservation last Winter and the Indians have started just as you are going to start here next year. Those people were just as much opposed to the new order of things in the beginning as you are, but you could not now get any of them to voluntarily return to the old conditions. They have railroads bringing markets at their doors for everything they have to sell. The same order will obtain here as soon as whites begin to settle in the country and your lands will enhance in value. Some of my friends here said if you take small farms you will have no land on which to graze your stock. Remember if you accept your allotments you have the choosing of your own location and you can select land having water; a field of ten acres of alfalfa will subsist more stock than five-hundred acres of these barren lands of yours. You could raise all you want for your subsistance on your farms, and remember that besides this Congress gives you 250,000 acres for grazing.

Now my friends, from the life you have led in the past, I do not wonder that you look unfavorably on this proposition because you do not understand it. I am pleased with the frank manner in which you have expressed yourselves in opposition to it, for it enables me to try and convince you by discussion that the acceptance of the provisions of the Act is for your best interests. Now knowing your attitude in the matter, as expressed by your speakers, it is my duty to try and convince you by sound reasoning, so as to bring you to understand the importance of your accepting allotments. Nearly all of your speakers said that you wished to do what Washington says; that you do not want to do anything against what Washington wishes. Remember I now bring you a message from Washington. That message is for your best interests. Remember the President of the United States has a great many people to think for. He has his red children and his white children. He is the head and the general director, and he has a cabinet among whom is the Secretary of the Interior, who has charge of land matters and Indian matters. Now the act of the Secretary is the act of the President in matters assigned to him, and Congress is the great council, the assembly of the representatives of the people. They make the laws and the President must execute those laws. All legislation enacted by the

great council must be signed by the President, after that it becomes the law of the country. It then devolves upon the President, becomes his duty, to execute that law.

Under this law which I read to you yesterday, the Secretary of the Interior is directed to send an Inspector to you to explain this matter of taking your allotments. If you consent on or before the first of June, next, to accept your allotments you will have the choice of your lands. If your consent is not obtained at that time or before, the land will be allotted nevertheless. Now my friends, these are the words which you say you dont like. It is true though and it is my duty to tell you. The Secretary has been directed to explain to you through an inspector and I am here for that purpose. Remember my friends, that the Secretary and the Commissioner are very much interested in your welfare. They will do anything they can to advance your interests, and this being the law it is your duty to comply with it gracefully. By accepting, and thus showing your good will, it not only strengthens you with the Department, but Congress as well.

My friends, your holding the reservation as in the past is out of the question. As certainly as the sun rises tomorrow it is to be opened. Now, the Secretary of the Interior, as a friend of the Indians, desires to have things made as easy for you as possible. Now, it is your duty to listen to reason and to the arguments which I have presented. Remember that our talk must be with no hard feelings. We must have our discussion in a friendly manner. I make this explanation to you because I see your talk has been all along one line. As I said yesterday, I do not want to hurry you. I want to give you ample time to consider, and I hope you will not close your ears to what I bring you from the Secretary, the Act of Congress which he is required to comply with and carry out.

Red Cap.

If you are telling us about this talk in Washington, let me talk there in Washington about it.

Inspector McLaughlin:

This is my letter of Instructions from the Secretary of the Interior and the Commissioner of Indian Affairs, ordering me to come out here. I read it to you yesterday.

Red Cap:

That is all right. I want you to take me to Washington. I want to take Chepeta and Charley Golota there too.

Inspector McLaughlin:

They are Uncompahres and have nothing to do with this business. A delegation to Washington could not accomplish anything at this time, this being already an Act of Congress and a law.

This has already been decided and cannot be changed. If a delegation was sent to Washington it would be only three or four persons with an interpreter, which would be only three or four of you people and all have an equal voice in this matter. It requires the signatures of a majority of you Uinta and White River bands to have the consent of you people acceptable to the Department.

Tim Johnson:

Your talk is not Washington talk. It is the Secretary's talk. I have heard the Secretary talk, and I know what he talks, and your talk is just like his, but it is not Washington's talk.

Inspector McLaughlin:

What does Tim Johnson mean by Washington? If he means the President, I told you a while ago, that the Secretary of the Interior is Washington in so far as Indian matters are concerned. The Secretary represents the President in Indian matters. Your going to Washington would not accomplish anything with the Department. The Secretary and Indian Commissioner would tell you just what I have told you here. Remember my friends, that the

Secretary of the Interior is represented here by me in this matter and is the same as present while I am here on this duty under his instructions. I am his mouthpiece, eyes, and ears while in the field under his orders. In having been assigned to this duty, anything you agree upon with me is the same as if you agreed with the Secretary, just the same as though you made an agreement with the President of the United States. My action in all individual cases of this character to which I am assigned is the same as if the Secretary of the Interior was present. He delegates to me certain powers in all cases to which he assigns me, and I am under special instructions in each instance by which I must be guided. My friends, notwithstanding that you have spoken in opposition to what have presented to you, I am very much pleased that you have taken part in this discussion. Your speeches have been very courteous and your attitude friendly. As we have taken up much time this afternoon, I think we had better adjourn till the same hour to morrow at which we met to day.

Shatkwitch:

The White River Indians are all coming here tomorrow. Inspector McLaughlin.

That is what I wish. I want all of you to come here and take part in this discussion.

Shatkwitch:

We will stay all day, every man till dark; we will talk without stopping to eat or sleep.

Inspector McLaughlin:

I will stay with you. I have the welfare of you people so much at heart that I want you to understand what is for your benefit and best interests. Your Agent will furnish rations in order that you may remain here at the Agency. Remember any time you wish to see me I will come to you and answer your questions.

There is one thing I wish to say: you have too many speakers. Remember I say this for your good. As two hours at a time in our joint councils is long enough, your council should get together and select a few of your best speakers to present your conclusions. It would be better in that way and will prevent confusion. I was recently among the Chippewas in Minnesota where there were thirteen hundred and forty belonging on the reservation, and they appointed five speakers to do the talking in our councils, and it simplified the work and made everything very pleasant and satisfactory to the Indians. I would suggest that you select such speakers to night from among your leading men.

Tim Johnson:

What you tell us to come and talk here for two hours at a time is good. The Indians have a council for themselves. They will keep on talking and it may be a month before they have done. They see you are their friends, and they are going to do as you say. After a while, when they get through talking, you will send the writing to Washington. They will read it in Washington and say, "That is the way they talk out there." They will know the Indians do not want the reservation opened. When the Indians tell you they do not want the reservation opened and do not like what you told them, that is the truth.

Inspector McLaughlin:

I wish to say in reply to my friend, Tim Johnson's remark that I know the Indians, when they say they do not like my talk, do not mean by that that they are unfriendly to me, but don't like the question which I present. But remember that Congress made this law, and the Secretary is directed to execute it and he has sent me out here to explain it to you people. That is all I have to do with it. The Secretary knows that I am a good friend to the Indians, else he would not have sent me to you people. As I told you yesterday, and as your friend who has

your interest at heart, I hope you will see the wisdom of consenting to accept your allotments under the provisions of this Act, and as desired by the Secretary of the Interior and all friends of the Indians. My friends, talk this over among ourselves and meet me here again at two o'clock tomorrow afternoon.

Council adjourned at 5-30 p.m.

Council reconvened at 2-30 p.m. Wednesday, May 20th, with 121 Indians in attendance.

John Reed, interpreting.

Inspector McLaughlin:

My friends, we have met again according to appointment. I am ready to hear anything you have to say. You have been counciling among yourselves, I presume, and I am ready to answer any questions you may wish to have answered.

Tim Johnson:

I have no other way to talk. This land belongs to me and I am going to keep it. There has been a line run around this reservation and I do not want it broken. I am not telling this for nothing. I tell it to you for the truth. It is a small piece of land I have here, and I am going to hold it. I am not going to give it up to White Men or anyone else.

Inspector McLaughlin:

My friend, I supposed from the explanation I made that it was plain to you that it is not for you to say whether this reservation is to be opened or not. I have been sent out here to explain that and obtain your consent to accept allotments. I have also explained several times to you that the Secretary is required under the Act of Congress to carry out this law. Prior to a short time ago, Indians were consulted in regard to opening their reservations. But under a decision of the Supreme Court five months ago, Congress may legislate in regard to opening

the surplus lands of the Indian reservations without consulting the Indians. Now my friends, with the best possible feelings towards you, I wish you to understand this matter as coming from the Secretary through me, that it is for your very best interest to consent to the Act of Congress and take your allotments. Now, my friends, it is useless to discuss this matter further on the line of arguments you have been making. It is not for you to say whether your reservation will be opened or not. All that is to be decided by you is whether you are willing to accept your allotments or not. Do not lose sight of the fact that the reservation is to be opened. What you have to decide is what way is best. If you do not consent before the 1st of June the Secretary is authorized to make the allotments anyhow.

My friends, I see you have a wrong idea as your speakers appear to voice. I am not here to ask your consent to the opening of your reservation, but only as to the taking of your allotments. That is the question for you to discuss and determine.

Sockive.

How did they take this land? Who gave them authority to take it?

Inspector McLaughlin:

I have explained that a dozen times. It was by Act of Congress. The great Council passed the law.

Sockive:

Does this land belong to Congress?

Inspector McLaughlin.

It belongs to the Government, except what you take in allotments.

Sockive:

You are telling what is not true. I am not going to give up this land.

Inspector McIaughlin:

It is all the same to me. It does not take a farthing out of my pocket or put one in my pocket whether you consent to this Act or not. But I am advising you to accept it for your best interests.

Sockive:

Even if it is right, still we are going to put it aside. You don't come here for nothing. I do not believe you are here in the interest of Washington. That's the reason we are going to put it aside.

Inspector McLaughlin:

I have sufficient proof here.

Sockive:

You have papers, but I have no papers. I have a heart, and my heart is here.

Inspector McLaughlin:

Yes; and I have a heart, and it is for your people here that I am thinking.

Sockive:

You have your papers in your pockets and everywhere. Where is my paper? I have no paper. You are a man and you see me here. I want you to listen to me. I have no papers to explain everything to you. If they said that it is all right but I am going to throw it aside. I am not going to give up this land. This land I travel over. We like this land and we are going to keep it. Our line, we do not lose that; we can't change it. This line runs here and we dont want it changed. This land belongs to the Indians and we are not going to give it to you. I have not two hearts, I have but one; I have not two mouths, I have but one. I am not going to talk any different. I am telling you the truth just as you say you are telling me the truth.

Inspector McLaughlin:

I wish all you people to listen attentively to what I am going to say. Your last speaker here seems not to understand what I have been telling you during the three days you have been with me. You seem to think that this is my doing. My talk seems to be displeasing to you, but I have told you the truth and every word I say is based upon the Act of Congress. Remember my friends, every man in this country is subject to the laws of the country and it is not only our duty but we are obliged to comply with the law. Every good citizen will accept the law. To say that I come out here telling untruths is very unkind. This matter has been published for weeks all over the country and every person that reads knows it. The newspayers have said that the Secretary was going to send an inspector to explain this to you and obtain your consent to the Act.

My friends, I do not blame you for your attitude in this matter as, from your talk, you evidently think you have the right to say whether or not the reservation shall be opened. But I am here for the purpose of convincing you to the contrary and to make it clear to you. I tell you there will never be another treaty made with Indians in regard to the disposal of their susplus lands. Since the decision of the Supreme Court, all surplus Indian land will be opened by Act of Congress, which will provide for compensating the Indians from the proceeds realized from the sale of their lands opened. I explained to you yesterday that in the past, when there were not so many people, in the country, large reservations were possible where the Indians had the privilege to roam and hunt. I told you that through immigration passing westward from the Atlantic Ocean in the east and from the Pacific Ocean in the west, the land has become very scarce so that all surplus lands of Indian reservations will soon be opened to settlement as has been done in numerous cases already.

My friends, you want to get rid of this idea that you

have the say whether your reservation can be opened or not. You are simply to say whether or not you will accept allotments. The survey for your reservation is already advertised for. The work will commence in a few months. After the survey is completed, allotments will be made. If you consent to accept allotments you have the selection of your own location, and you will have the choicest tracts. If not, under the law, the Secretary is obliged to allot tracts to each and every one, 80 acres to each head of a family, and 40 to each other member. These allotments must be irrigable land, and in addition to your allotments you will have 250,000 acres set apart for grazing purposes. This is the condition, my friends, and it is your duty to accept it gracefully because the law of the great council has said so. And it is the duty of the Secretary and of the other officials of the Department to see that the law is complied with. I hope for your own sake and the welfare of your children and those who are to come after you that you will look at this matter in a sensible light. As I said yesterday, I know very well that this being a new departure, something new, you are suspicious of it and very reluctant to act upon it and slow to consider it.

Tim Johnson:

I want you to sit down and listen to what the Indians have to say: they want to talk.

Inspector McLaughlin:

I know that if they talk along the lines they have been talking up to the present time it is of no use to listen to them. I am going to sit down when I am through with what I have to state. I wish to say though, that if they talk in the same strain they have been talking, it is useless to continue our councils longer. If they want to discuss this matter in a sensible and reasonable way, I am here for that purpose, but as to whether or not the reservation

is to be opened up to settlement is not the question, and it is useless for us to discuss that further because that question has already been settled by Congress. The reservation will certainly be opened and it only remains for you to decide as to whether you will consent to accept allotments or not.

Happy Jack. (Uinta.)

That's all right; that's good. You are talking to your friends; your friends are talking to you. You are a friend to us; we are friends to you. We are talking together to have an understanding. The people in Washington that talk about this reservation dont like Indians. I have been all over the country here among the whites. I have been to their towns and white people dont like me. I am of a different color from them. When I walk down Main Street they say "Watch that Indian; he will be taking something." They tell the police to keep a eye on me. That's the reason the Indians do not want white people to come here and take their land. I do not think it will be that way anyway. After the white people come in here it would not be very long till we would be all gone. They will say "We took your land, now we will take your house; so you get off this land; go to some other country and find some other place." That is the reason these Indians feel bad over this business. All over the country the white people dont like Indians. The land where the white man's towns are, belonged to the Indians at one time. That's the reason we cant come to any understanding. These Indians do not understand what you are talking about and you dont understand what they mean. The white man knows the Indians have something on the reservation. They are all trying to see who will come in first and racing with one another to get in first.

Inspector McLaughlin.

Happy Jack raised a question which is a very good one. Remember my friends, I will take nothing you say as

offense. You will respect me later when you find that my words have all been truths; and if we ever meet again in after years, you will say that my talk in these councils was straight. Happy Jack raised the question that white men would come in and take your allotments away from you. I will explain that. This is a great benefit which you people would derive by taking allotments, for the reason that the government gives you a trust patent for your land holding your allotment in trust for you for twenty-five years. During the trust period of twenty-five years your land is exempt from taxes while the white people around you have to pay taxes on their land.

During that time no person can dispute your right to your allotment or trespass upon it, and the allotee cannot sell his land till the trust period expires in twenty-five years. That is for your protection to secure your allotments. Then the proceeds of the sale of the unalloted surplus lands of your reservation goes into the treasury to your credit to be expended for your benefit in the discretion of the Secretary.

My friends I am here to listen to you and to talk to you and try to enlighten you in this matter, and apart from being the representative of the Secretary in this matter, I am here as your friend to do the best I possibly can for you. Therefore I trust that our discussions will be friendly and no hard feelings will arise between us. It will not be on my part I assure you.

Parank.

I do not understand anything about this paper. I am an Indian. I dont understand anything about papers. What you said about their talk there in Washington, I am afraid of that. I dont know anything about this, and I dont know what it is to have a little piece of land cut off. What will I do when I get in there on that little piece of land? When I get on that little piece of land I think I cannot go anywhere, cannot see anything. It will be just as when it is cloudy and raining, you cannot see anything;

it will be that way when I get on this piece of land; that is the reason I dont like it. When the sun is up I can see all around. I am not in the habit of talking in council. I tell you the truth. I am talking because we have a line around the reservation. This agency was built in the middle of this reservation long ago. I think the paper is in the office down there and it cannot be lost. If they throw it into the fire it would not get hurt, they will keep it. If it lays in one place it does not get old.

This reservation line is run all round; the iron posts are along the reservation that make the reservation line. That is the reason I talk because I like it. The white chief made this reservation.

Inspector McLaughlin.

This speaker has brought up a very good question. His remarks have brought up something which I will explain. He seems to labor under the impression that when a man takes his allotment he is confined to that tract of land that is alloted to him. My friends, when you take your allotment you are deprived of no privileges you have at the present time but other privileges are gained through the allotment. The tract of land alloted to you is your own individual tract of land. You can cultivate that piece of land if you desire or you can lease it to some person by approval of the Department, which is always granted. There are a good many Indians living on the rental of their allotments. The Department requires Indians to cultivate at least a portion of their allotment and they can lease the rest. As I told you yesterday the Kiowas, Comanches and other Indians were just as much opposed to opening their reservations as you are today to this change, but you could not get one of them now to go back to the old way of living, they are so well pleased with the new conditions.

Red Cap.

I do not like the things you say to me atall. All your talk is like dark night. My talk to you I want to be like

day-light. This agency has been here by Washington. It is here and you cannot change it. This agency is holding down all the streams here. It is holding the mountains and the timber. This belongs to the White River chief Sowawick. The line is laid around this land and there is no one who can come in upon it. They cannot break it nor crawl through it. I talk to you and what you are talking is no good. Thats all.

Appah.

I am going to talk to you today about this business that you are here for. We are going to talk now when the sun is in the West. We are talking here in our agency house and you say you are a friend to us and you are talking this unpleasant business here. Here are my young men around us. They are here and you white people should be my friends. Now we are talking what we think to each other. Here is our chief, my father. Our agent here, Capt. Mercer, is my father. The agency is down there and he is holding it down. I am not poor yet; I have a father at the agency. This land here where I am talking belongs to him.

I am not living on this land through a lie. What you are telling here I cannot understand. I understand this agency and this reservation that I live on. My friend tells me about this Washington. My boy is living on this reservation. I dont want people coming here to settle this land. They cannot come and settle it. When they talk that way we dont understand what they are talking about. This is a big thing here and they cannot steal it. They cannot steal it by a lie. I dont like it. What I am telling you is the truth. I am not telling you this for any joke. Even if you do say that I do not believe it. I do not want you to steal Washington's mouth. You are a good man. What you are talking may be truth. The agent here never came in here with a lie either.

Capt. Joe.

The reason these Indians are talking is, if Congress did this they do not like it. They dont understand this paper. They dont know how to read if they did understand it. You are talking, we are listening. We dont feel hurt through you at all. They are wondering why they talk that way in congress. We never heard it before. We do not like for them to come and steal our land. This land here belongs to us—all this land here. Not only Congress knows about this reservation, but all white people, that this reservation belongs to us. We have a school-house here and our children are going to school. When our father talks to us we do not say "No, no". The Indians say that even if Congress did say that they dont want them to take this land because it belongs to the Indians. Even if they did say that this land is to be taken away we do not want it to go. If they do say that we want them to drop that talk, we don't want to shed any blood about it. We don't want you to get mad about it, you are our friend and we want you to say "all right, my brother". These Indians do not understand all the white man is doing. I do not know how many years this reservation has been here; it may be thirty years since this belonged to us. I don't want the white man to drive us on little farms. I don't like for white men, to talk hard to us. Everything will go smooth, there will be no hard feelings. That is what all the Indians say.

Sowsonocutt:

This man tells the truth: they like this land. They want to keep it. They are not here for nothing. This land has been bought. That's the reason we do not want the white men to take it. The land belongs to me, I do not like for them to come here and talk to me about that. That makes me scared when you are talking here. The Indians have their stock running over this land: that is the reason they like to hold it. Even if the white man does say he is going to take this land I am not going to give it to him. This land was bought, I bought it.

Terras,

The way these men are talking I like that. Our chilren are on this reservation and all our things are here. The reason I am talking is because I have my living here. We do not want to go the way that man is talking in Washington.

Uncasam,

I want to know what you are talking about. You are talking about allotments. That is not good, I do not like it. I am telling that to you. This land the Indians do not want to sell. They do not want anybody coming to cut this land.

Inspector McLaughlin:

A number of your speakers have said that you do not want your land stolen from you. My friends, these hills, these streams, these valleys will all remain just as they are. There will be no change in the nature of the country but the improvements that will come when white people come in among you. My friends, Red Cap said my talk was cloudy, and you do not understand it. You are the people who are in the dark in regard to the force of this act of congress, and I am trying to bring you into the light. You say that line is very heavy and that the reservation is nailed down upon the border. That is very true as applying to the past many years and up to now, but Congress has provided legislation which will pull up the nails which hold down that line and after next year there will be no outside boundry line to this reservation. Each of you will have a boundry to your individual holdings and there will also be a border to that 250,000 acre tract set apart for pasturage. You fear that you are going to be confined to the tract of land allotted. That is not so, and I will explain a little more clearly. For many years you have occupied this large tract of land known as your reservation, and when you went outside that tract the white men you met thought you had no right to travel outside the reservation, but when you take your allotments you can travel like white men and you will not need a pass. Your Agency will be continued just the same as now; the Agent will have full jurisdiction just the same as now, to protect your interests, and as citizens you will have the protection of the laws of the state to redress injuries against you. The opening of the reservation and taking of allotments give you a great many privileges you do not enjoy at the present time. Remember your allotments are exempted from taxation for twenty five years. You will receive what is called a trust patent for your respective allotments which secures the land to the allottees and their children, and none of you can sell your individual allotments during the trust period of twenty five years. Now my friends, I think we are coming nearer each other and that you understand me. The question of opening the reservation is not with you; that has been determined by the act of congress. One of your speakers said that Washington never sent out that word before. That may be true, but I am now here to announce it to you, and my friends, I wish you to understand fully and clearly the import of the words which I convey to you. We want to discontinue useless discussion as to the opening of the reservation and take up the question whether or not you are willing to take your allotments as provided in the act.

Tim Johnson;

You do not talk like they talked to me in Washington, you talk as though you stole Washington's mouth. Here are men who were with me in Washington. The Secretary talks just the way you have been talking but the president don't talk that way. He did not talk that way when I was there. I don't believe that you come from the president. You are not from Washington; you are from where congress is. They should not have sent you here. They should have sent some one here to ask the Indians about this first. We did not talk about this allotment when I was there. They told me "when those fellows talk don't pay attention to them. If they talk about you land like

that don't let it get into your ears". While we were talking there the secretary telephoned, and Washington, said "Pay no attention to him. I do not want him to come into my house. Let him stay out there". That's the reason we are holding back on this, The secretary told us about this $1.25 business. That has been talked before.

Inspector McLaughlin:

With reference to the statement Tim Johnson has made, no act of congress becomes a law until signed by the president and I am here today talking to you people and presenting to you the will of the President, because he has signed the Act and made it a law, that is, the Act of Congress for opening your reservation was approved and signed by the President and it therefore is sanctioned by him. The Act having been approved by him it now becomes the duty of the Secretary of the Interior to carry out that law, as he represents the President in Indian matters. My friends, I have no doubt but that if you were in Washington two years ago the officials of the Department may have told you that your claim to this reservation was good. That was before the decision of the Supreme Court of five months ago which I have told you of, since which decision the policy of consulting Indians in regard to opening their reservations has changed. My friends, Congress has passed a law opening your reservation and the president has consented to it by signing the Act. Under that act you may consent to take allotments of your own selections and if you refuse they will be arbitrarily allotted to you, and in addition to your individual allotments 250,000 acres will be set apart for your common grazing grounds. That will be done on or before a year from the first day of next October and your surplus land will be thrown open for settlement on that date. Therefore, my friends, it is for you to decide whether you prefer selecting your allotments for yourselves or that they be arbitrarily assigned to you. It is useless for you

to talk along the lines you have been talking. You should now confine your deliberations to the consideration of the one proposition, that is, the acceptance of your allotments. Therefore, for the remainder of this day, to night, and tomorrow morning, confine yourselves to the consideration of this question whether you are willing to accept your allotments or have them arbitrarily allotted to you. You have been wasting time trying to discuss a matter entirely foreign to the question before you. Remember the question before you is, will you consent to accept your allotments or not? Think of this question and try to give me an answer to it to-morrow afternoon at two o'clock. We will now adjourn till two o'clock tomorrow afternoon.

Sockive:

I am telling you the truth and I am not telling you a lie. We do not talk two ways. All these men say that. They talk only one way. They do not want this land cut up. That's what I am telling you. I am not going to give you this land. You come here tomorrow and talk about it.

Council adjourned at 5:45. P.M.

Council reconvened at 2 o'clock p.m. Thursday May 21st with 112 Indians in attendance.

John Reed interpreting.

Inspector McLaughlin:

My friends, we have met again according to the understanding when we adjourned yesterday. I am ready to listen to anything you may have to say, and hope you have come to some conclusion in the question submitted to you.

Parank:

What we are to talk about has been before us a long time and we haven't anything else to say about it. This that you are telling about that Congress has done is not very old. It is not old yet. We dont want it to go that

way. That's what I say, and that is what I think. I want it put aside.

Red Cap.

This reservation line has been there for a long time. This what you are telling now is new. This what I am telling you is old. I am not going to throw that aside. This what you are telling about what Congress has done, is not very old. It is not old yet. We don't want it to go that way. That is what I say, that is what I think. It has been here before the white men and the Morman came. What you are telling is new. This new talk you have brought in, I want it turned aside. It has been going as it is since before I was born. Your talk is nothing, I want you to say "yes", I want you to say that it is to go the way I talk. I want you to say, "I am listening".

Inspector McLaughlin:

I wish to reply to my two friends who have just spoken. They have brought up a point which is a strong argument in favor of what I am presenting to you. An old law always remains till displaced by a new one. Since the establishment of your reservation you have been governed by that old law referred to by your speakers. My friends, Governments are like people. The older the more advanced they become. Those of you now here know a great deal more than your fathers, because you have been advancing, and your children will know more of the white man's ways than you do. Our Government is advancing steadily just the same as the people and our Congress has come to the conclusion that the best thing for the Indians of the country is to break up their reservations and settle them on individual allotments. That old law which these two speakers have referred to has been abolished and this new law takes its place, which from this time on will govern in dealing with you as with other Indian tribes. I have taken great pains to explain to you that it is useless to think of retaining the reservation as in the past.

You and I might talk here for a month and we would make no change in that. All your wishes would effect no change in that law. This being the law my friends, the next best thing for you to do is to accept what will be of the greatest benefit to you. The question of consenting to accepting your allotments is the one you are to consider and determine upon, as passed by the great council and signed by the President of the United States. That is the simple, plain question before you.

Tim Johnson.

These men here are telling you the truth about this reservation for they have been here a long time. This line was put here a long time before the white people came. This talk of Congress is new and has only lately been made. We do not want it to go that way. Their talk in Congress is not very old. This is our land where we were born and that is the way we want it to go. Thats the reason I say "I wont let you have it". What I tell you is good. You are my friends and I want you to say "yes".

Inspector McLaughlin.

My friends, I know the status of this reservation and how it was established. There was a certain tract of land here withdrawn from settlement and set apart upon which any Indians in Utah might be located. It was in 1861—41 years ago, that it was thus set aside.

I have no fault to find with you for the view you take of it, you having been under that system a great many years. But since my arrival here I have been trying to impress upon you, and make you understand clearly, that these conditions have ended and a new law has displaced the old one. And you must conform to the new order of things and accept this act, it being now a law. The Government is the best friend of the Indians and will do nothing which is not for their benefit in the end. Remember your lands are not being taken away from you by this Act. You are receiving allotments and it is only the sur-

plus lands that will be opened to settlement. I am telling you the truth, my friends, and you must bring yourselves to look upon it in the proper light.

Appah.

I do not understand what that new law is. I do not understand about our reservation line made by that old treaty, how this new law can throw that off. I do not understand that. I do not know how it is that the President put his name on that Act of Congress. You are pulling me round from this line here. I do not feel very happy when you do that. I do not understand why Washington's name was put on that. When you cut our land up and put me on a piece of land I don't understand it. You say, it is thrown open and it seems I can't understand it. You have not shown it plainly enough for me. I can't understand why you are pulling me round over the country, but you are pulling me round like a horse. You are pulling down the Agency and you are pulling the school down too. This is why I don't understand it. You have it hid in your pocket, and I don't understand it, and it seems as though I had no sense. I am not going to think the way of this new law. Why don't you throw that law away? You are just like a storm coming down from the mountains when the flood is coming down the stream and we can't stop it. I have this reservation line fixed and you can't throw it aside.

Happy Jack.

We have all met here now and are talking. We are your friends and we don't want any trouble. Let us be friends. You have your friends, and we Indians are your friends. We are shaking hands together and we don't want any quarrels. I am going to talk to you now why I am afraid of this; and afraid of the White man. Long time ago we had a talk in the old school house here about allotments and throwing the reservation open. Senator Rawlins was there. I am afraid of this because the White man don't like the Indians. They don't like our flesh,—

our color. After that, Senator Rawlins went back and Judge McConnell came. I understand all about that. Judge McConnell said, "We want to lease your reservation mines, those elaterite mines", and he said, "You Indians will have lots of money. I will pay you every three months." The Indians had a council and said, "All right. We have a father in Washington. We will go down and see what he says about it." Charley Mack was interpreter. Tim Johnson, Sowasina, and myself, and it took us six days to go. We went into Washington in the night when the electric lights were all bright. There was a carriage with four horses and we rode to a hotel. We went into a fine building, got fine rooms, good beds and everything nice. Next day we said, "We want to go and see our father. They told us, "You change your clothes." They told us to go to the store and get clothes. We went there and bought what we wanted of clothes. We then went out, and they pointed out a place to us and said, "That's the place." There was a fine big white house there. Around it there were no buildings, but there were some soldiers on one side and some solders on the other side. There was an iron fence around it, and at the gate were two Negro policemen with badges on. The Agent had a pass. When we went to the door these Negroes stepped in front of us and the Agent gave them a paper. We went on inside. At another door were two more Negro policemen; they stopped us the same as the first two did. Then we went on inside and sat down. After a while a bell made a noise, and at one side, through a door, that opened we could hear some one walking. We all lined up. He came into the doorway with a smile on his face and he did not look mean. He had a smile and he came and stepped in front of us and spoke to Charley Mack and Charley spoke to him. Then he came up and shook hands with Charley and all of us. He said "All right, my boys." We were there only a little while, not very long, and we went out again. The President's name was McKinley. The next day we went into the place where they talk. (Congress) We then went to a house where they had no stairs.

There was a hole in the middle and a cage that took us up and they locked the door, and we went up quick. And when we came to a floor they opened it and we were introduced to the Commissioner of Indian Affairs. We shook hands with him but we did not talk very much, just a little bit. The Commissioner told us that this land belong to us. He said that the White Men around our reservation did not talk right. And he told us, "These White Men, they are stealing my mouth, because I am a long way from them." We were shaking with fear before going there, but when the Commissioner told us that we felt as if we were alive again. We felt all right, and came home feeling good. We got the Indians together and told them about our trip. That lease did not go through very soon. It was six months before that went through so that the White Men could mine. That is the reason why these Indians refuse to believe what you are telling them. President McKinley thought a great deal of the Indians. I liked him very much. After that, the man who liked us so well was killed by a White Man. The Indians felt very bad over it. They did not like to hear that their father was killed and it made them all feel bad. I do not know this new President, but I have heard that his name is Roosevelt. He does not like my flesh back there. The good talk that was talked to the Indians is all changed. They do not talk that way now. He is talking now in Washington, and he says, "Yes, open the reservation." I don't like that; these Indians do not understand that. That is the reason these Indians do not think that what you are telling them is straight. These men here, when Washington told us to go and make farms, we did it. We like to do that way. We said, "Yes". Our great chief talked that way. They said, "We want your children to have an education: send your children to school. The children have no education; they die and go under the ground without knowing anything." Now they do not know what to think of it when that paper comes here. They just look at you, and don't

understand it at all. When they are talking about that, they cannot get anything out of it.

Inspector McLaughlin:

I want to say that Happy Jack has made a very good talk. His description of his trip to Washington is doubtless true and quite interesting. His estimation of President McKinley is deserving and very commendable. He was a good man, loved by all who knew him, and was a true friend of the Indians.

We never had a President who knew more about the Indians than President Roosevelt does. He has spent months at a time among the Indians on the frontier, and when our war with Spain broke out, he went to Cuba with a regiment and had many Indians in his command. When Congress assembles in December, each year, the President sends a message to Congress, and President Roosevelt has sent two such messages, in which he has always recommended, in the strongest language, the Indian's welfare. I thought I had a book in my pocket containing an extract from his last message, but I have not. In that message to Congress he spoke most kindly of the Indians. I want you to feel that you have in President Roosevelt, as good a friend as you ever had in any President. Remember that while being at the head of the Government, he is only an executive officer, and is required to carry out the laws of Congress. And as this Act of Congress has been approved by him and has his signature attached to it, its provisions must be complied with, and the Secretary and the Commissioner, who act for the President in such matters, will see that you are justly treated and that you will receive every dollar realized from your surplus lands. I am very glad that Happy Jack made his speech as it has enabled me to advise you of this.

Parank:

I think there are minerals on this reservation. Washington knows where to find them and that's the reason I want

to keep it. On this reservation, there is gold and silver and this black stuff. (gilsonite) That's why I am talking. I am afraid of it. I am talking because I am afraid. If I saw Congress making this law, I would listen to it. I would talk different if I knew Washington talked as you do. I have this land for my children. I am saying this to you because you are my friend.

Inspector McLaughlin:

You need not be afraid of the White men. You have an agent here. He is a war chief and will take care of you. Tomorrow I want you to come here again at two o'clock and I hope we can finish this business then. I don't want to hurry you but the sooner our council terminates the better. Meet together to night and council among yourselves and try to be ready to vote on this question when you meet me tomorrow. We will now adjourn till tomorrow at two o'clock.

Council adjourned at five o'clock, p.m.

Council reconvened at two o'clock p. m. Friday May 22, with 120 Indians in attendance.

John Reed and Vernie Mack interpreting.

Inspector McLaughlin:

My friends, we have met again, and I expect to hear from some of you to day as to the results of your council last night. I expect to hear some conclusion which you may have reached. I want to call your attention to one thing that I have observed here yesterday and again to day: when you sssemble in our business councils you discuss among yourselves. I would prefer that you would confine your discussions of that kind to your tribal councils before coming to this council.

My friends, remember that it is not a question of opening the reservation. It is the question whether or not you consent to take your allotments under the provisions of the Act of Congress which I present to you. I have taken

great pains and explained to you repeatedly in every session; that Congress has already provided for opening the reservation and the only question for you to decide is whether you are willing to take your allotments or not.

Tim Johnson:

You had your talk in Congress. Now we talk to you, and when you tell us you are going to open the reservation, we say "no". We will not open the reservation, and we want you to say "Yes". The reasons the Indians want to keep this reservation are because it belongs to us. That's the reason we say "No" to you. I will talk the same as on the first day, and you can talk the same as I did. Say "Yes" or "No", I am not going to give up to you.

Inspector McLaughlin:

My friends, it is not for me to say yes or no because, I have told you, that has been decided by the Act of Congress. My friends, I have heard all this before. I am here to get the mind of each and every one of you Indians in regard to this matter. Every day, during our councils, I have heard the same expressions from the same persons, not exceeding fifteen of you people, while there are present a great many who have not expressed themselves. The same few individuals have been speaking and they seem to dominate the council and have not allowed others to speak and express their wishes. I do not know what the feelings are of those who have not yet spoken. I am ready at all times to listen to you express yourselves, and it is your duty to listen to each other and not interrupt any one who attempts to express his views to this meeting. Now remember, my friends, each one of you may express himself in regard to the matter. I wish to hear from some who have not thus far spoken. A few of you have monopolized these meetings to the present time. I speak this with the most friendly feelings towards all of you,

and I hope you will take it as coming from one who has your best interests at heart.

Appah.

We are having council to day. We are just having a talk of what we think. We do not mean any trouble; we have not anything to get mad at each other for. This Agency down here is down under the ground now. That is the reason it is so heavy; this Agency is solid, it is looking after these streams and the mountains. Everything on this land here, it is holding the reservation line down. That is why it is so heavy. The Agency is old; it has been here a long time before the White People came. It is holding down right solid; that is the reason it is so strong. Nothing can move that line. That's the reason you cannot throw it away. That's what I say.

Sockive:

This Agency is so heavy it cannot be moved; that's the reason the White Men cannot throw it out. This Agency is guarding all the streams that come down from the mountains. It is guarding the reservation line. That is the reason this line is so heavy. I don't care how big anything is, it cannot take this line and throw it away. Are you a stout man that you can get this line and throw it away? That's the reason I am not going to give this land to you. Say "Yes". What you are talking is not right.

Inspector McLaughlin:

My friends, I want to tell you people that your Agency will remain just as it is. You will have an Agent provided who will look after your interests just as at the present time, and any change that is going to take place will be for the better, as you will have individual allotments. I am not here to take anything from you. I am here simply to tell you what is provided for by the Act of Congress. My friends, I think it unnecessary to repeat again what

I have told you so often before, but I will say this legislation is provided for your benefit. The Act of Congress gives you to the 1st of June to consent to accepting your allotments, and it is very desirable that you consent to accept them before that date, and I am here for the purpose of obtaining your consent. Remember that after you take your allotments, you will receive the trust patent, a strong paper, from the Government, and after you receive that, no one can take your land from you. It passes down to your children and those who come after you. Your land is exempt from taxation for a period of twenty-five years; no lien can attach to it and you cannot sell it for a period of twenty-five years. My friends, if you could only separate the question that is in your minds from the actual question before you, I do not think you would hesitate long in deciding upon accepting your allotments.

Parank:

Now we are having a talk before you. You are here to day telling this to us. The Indians do not know where this paper was made. They did not see it;—that's the reason they say they do not know anything about it. That is what we are talking about now. The Indians are talking about this reservation line that has been put here for a long time, and they cannot understand why it is thrown aside. It was put down a long time ago, before any of these people were born. This line is quite heavy. Now they are trying to throw it aside. It is so heavy that no one can throw it aside. They are talking about it now just as they were when it was made here. They think it is still running here. That is what they are talking about now. We do not want to throw it to one side. That is what the Indians say. We have our Agency down here. It is just the same as it was before. The paper is in the office down here; it is lying in the office watching the reservation line. It is watching the timber and the water.

Red Cap:

Our Agency is here now and has been for a long time. It is right square in the middle of the Reservation. The treaty is here in the office. It is watching all things around here. The Agency is watching all this land. This Agency has all the streams and the timber here upon the mountains. It knows these mountains and hills. Look up and you can see them lying around. You cannot take away these things; they are right heavy. Nobody can take them away, nor lift them,—I don't care how big he is. Are you a right stout man that you can carry them away?

Inspector McLaughlin:

My friends, it is my duty to try and enlighten you in this matter,—even if I fail to bring you to believe in the way I would wish to have you look upon it. I want to tell you what many of you do not know; this reservation never was what is known as a treaty reservation,—it is an executive order reservation. It was established by order of President Lincoln in 1861. President Lincoln set aside a piece of land here within which no White man was permitted to come unless authorized by the Government. This reservation was not given to you outright, it was simply reserved for your use, and upon it any other Indians of Utah could be located who might be brought here. Large reservations are a thing of the past, and all surplus lands of Indian reservations will soon be opened to settlement, but the Indians will be assured of their homes and compensation for the lands opened. I have explained to you people several times since we have met that the Supreme Court of the United States rendered a decision on the fifth of January last, nearly five months ago, which gives Congress the power to legislate in regard to Indian reservations without consulting the Indian. It matters not how the reservation was established, whether by treaty or by order of the President of the United States. Under that decision, Congress has enacted legislation which has become a law and received the sig-

nature of the President which opens your reservation, as I have explained to you. You seem to be under the impression that this Act is going to take away from you all your land, but such is not the case: Congress has provided that you will receive compensation for all lands outside of your allotments. The proceeds will go into the Treasury of the United States for your benefit. After you receive your allotments the line which you say is so heavy that it cannot be moved will be obliterated and the surplus land, except 250,000 acres reserved for grazing, will be opened for settlement. You can take your allotments anywhere within your present boundary line, but they are to be irrigable lands, that is,—land that can be watered by irrigation. The 250,000 acres will be reserved as common grazing ground for you people,—that tract is to be located south of the Strawberry River,—it cannot be north of the Strawberry River. After you receive your allotments, the rest is open for settlement and can be located upon by persons desiring to come into the country. This land will be taken under the public land laws of the United States. All homesteaders proving up upon their claims will have to pay $1.25 per acre into the treasury to your credit. Provisions is made by the Act of Congress that you are to receive your allotments before the reservation is opened. If you consent on or before the first of June you have the selection of such tracts as you desire. If you refuse to accept your allotments the Secretary is then directed to cause the allotments to be made to your arbitrarily. You can lose nothing by this, my friends, but you will gain many privileges, as I explained yesterday, which you do not enjoy while holding your lands in common. I have explained the importance of this question to you time and again, placing it before you in various ways, and have tried to make you understand this simple proposition, and you cannot have failed to understand if you have kept your ears open to what I have said. You must not think, my friends, that I am interested in this at all other than

desiring to see you benefited. For your own sake and that of your children, grandchildren, and those who come after you, it is your duty to accept this proposition.

Sockive:

All right. You did not say that this is not your talk, —you did not say that. That is the reason I do not want you to talk about it. I tell you that I want to keep this reservation. This is not your talk. I want to keep this land. I do not want you to talk very much about it: I am not going to give you this land. These men back here all want to keep this land. They are going to keep it. These men here will not give it to you even if you do ask for it. You are not going to cut this reservation into little pieces. We do not want you to talk about it. This land where our children have grown up,—where our dead are buried, we don't want to let any of it go.

Terras:

I say these Indians want to keep their land. I like this land. This Congress that is talking, we do not pay any attention to. Congress can not open this reservation.

Sovsonocutt:

We hear these Indians talking. They say they are not going to give you their land. Can you hear what they say? If you hear what they say, you want to say "Yes" to what they say to you. We are not telling you this for fun. This land where we were born and raised, we will keep it. That is the reason we say "No," we do not want it to go that way. We want to keep it. This is our land. We want all the land. We do not say we would give it to you. We keep telling you "No." This is not talk for fun either. It has been here for a long time, this Agency, and it is not here for fun either. It is holding this land down. You cannot ask this treaty in the office any question. That is what is holding this reservation. We do not want our reservation cut up in little pieces of land. That is the reason we say "No."

Happy Jack:

Now you are our friend and we are having a talk. You come from Washington to tell us a whole lot of stuff. You came here to tell these people what they said in Washington. You tell them "I am here for that business." They listen to you and they say "yes." They hear what you are talking and they tell you what they think about it. They listen to you when you say, "You take your land in allotments." That is the reason they are giving you their answer. They are afraid of the White man. When the White man talks, the Indians are afraid. The Indians understand the White Man pretty well. That is the reason they are talking so. When the Indians take their land in allotments, they will lose everything they have. That will not be good. After they lose everything they will be poor. They will not have anything,—they are afraid of that even if you do say they will be better. These White Men do not like Indians any way. They will get into fights,—they will kill the Indians and lock them in jails. What you are telling will not be any good for us. The Indians do not want to be shut in. They want it to be so they can see a long way on the reservation and travel every place. They like to be as they are now, so they can come in and sit down and do what they like. You listen to what they are talking. You tell these Indians here what Congress in Washington told you. I have heard you say that. That's the reason I say as I do now.

Inspector McLaughlin:

I have been listening very patiently to your remarks but we do not seem to get any nearer than in our first council. I have the minds of a few of your very clearly as expressed by individual speakers but I would like to hear from others.

Appah:

We are having a talk with each other now. We are not going to do any harm to each other. We just talk to

each other. I am talking good to you. I talk to you the same as you talk to us.

Columbus:

You seem to be Congress. This is where I raise my horses. Now I can go where I want and visit my friends. I like it now here as I can go where I like and never be bothered by anybody. Am I going to take my horses and drive them like sheep over to that pasture land you are talking about? That is why we will not, listen to what you say. We want to keep this land here ourselves.

Charlie Sireech:

This Agency has been put here by a good man. The man that had a big heart and his arm was strong. That is what Captain Beck said. Nobody can break Washington's arm. That is why I listen to what Washington says. That is why I am Washington's boy. That's why I want to keep this land. I have been put here by him. He tells me, "Stay on this land and grow up on it." He says, "You can do what you want to do." That is what the Indian's are doing now. The Indians here listen to right good talk. The Agent has heard it and he said it was good talk. That's the reason the Indians are talking. They want to hold this land. They are not going to do what you want them to do.

Inspector McLaughlin:

I will just speak a few words more. My friends, there is one thing that pleases me;—you all speak well of Washington. Washington is your best friend,—your protector. Now from your expressions, one would think you would be always ready to do what Washington wants. I am here presenting the wishes of Washington to you. And it is for your good to consider the words of Washington as coming to you for your best interests. He wants you to accept what I have placed before you.

Sockive:

You tell us the same things every day.

Inspector McLaughlin:

I tell you what is true and for your good. You will think more of me later when you find that I have told you the truth.

Little Jim:

I am going to talk to you anyhow, even if you have no ears. This reservation has not been put here for the fun of it. Washington put this reservation here and all other reservations all over this land. This Agency is Washington's thoughts, and it is good. That's the reason you cannot open this reservation. You can see this line running here: you know where the line is. That is there, and you cannot do anything with it. You can take a horse and put him in a good corral and he is still there. He cannot get out. When you have a good corral the horse cannot break out. We have an Agent here. We like that. It makes us feel good. These soldiers at the Post are down there and we feel good. They are for our protection. This line is right here and the soldiers are watching it. They are down there watching everyone to see that they do right. Washington said,—"No one can take any part of this land I will not allow it." Washington said,—"We will put these Indians on this land and they will be the same as one big tribe." I am not saying this for nothing. Now you did not know about this treaty so I am telling you that now. I know this because I heard Washington tell it. Now this land was put here for the Indians, not for everyone; it was put here for us. That's the reason we want to keep it. We keep it for these young people growing up. We all say we do not want to have the reservation opened, and we do not think you are doing right. We do not want this land cut up in small pieces. (Shakes hands with Inspector)

Yumbuts:

This land here belongs to me. That's the reason I am going to hold it. I am not going to give it to you. Your talk is only one way, and our talk is another way, and my talk is right good.

Inspector McLaughlin:

I have so far, heard mostly from the White River Indians. I would like to hear from the Uintahs what they have to say.

Grant. (Uinta)

I want to talk and will talk now. I have a mind of my own. I think that Congress should have sent a man out here before this law was passed, to talk with the Indians and have an understanding with them. Then we would have got along easier. I do not know anything about this allotment business and I sit back here and listen to the two sides. I do not know which way to go. It hurts me a whole lot. They pull me one way and the other, and I don't know which way to stay. I work on my farm and raise crops. Now, when they come here cutting the land into little pieces it looks as though they would do me up. That's the reason I do not like it. What are my horses going to do when I have only a little piece of land? Must I tie my horses in that little field? That's the reason I do not like it.

Inspector McLaughlin:

You have three children, you will get a large piece of land.

John Star. (White River)

I have just come down from the saw mill where I have been working. I just got here now. You see me and I see you. My flesh is black: you have good flesh, you are white like this paper here. My flesh looks like the ground. That's the reason I like this land; my flesh is like the land. That's the reason I am going to keep it. Why should I give it away? I like it: I was raised here. That's the reason I have got it right in my heart. I am pretty well

acquainted with the White Man. I know him. The White Men want something all the time. They want everything. They are after this land and are troubling me all the time. If I have cattle the White men will come in and drive them off. Then there will be trouble. That's the reason I will not give it away.' Are you going to take our land? I want you to say "No", whether you are going to take it or not. I want you to answer me.

Inspector McLaughlin:

I am not here for anything for myself at all. I am here to give you the words of Washington.

Wapsock:

I am not going to talk very much now. Who it is I am going to talk to? Is it to you? That paper on your table, is the same as if it came out of a hole in the ground. That's why the Indians are talking as they are about this. That says you are going to open the reservation. I say, "How are you going to do it." What is the reason for it? How can you open it? I think like this: when the White Men come flocking into this reservation our Agent would keep them back off the land. That's all I am going to say. It is just like if a man had a horse and some one asked for that horse. He would say "No."

Ebenezer:

What I told you yesterday was good. Congress don't know, and I want you to tell these people. It is the truth I am telling you about this. These Indians want to keep this land. They tell you this. They know what you tell them. We don't want you to tell anything that is not true. This that you are telling, how long before it is to be that way? When this happens, will the game wardens bother us?

Inspector McLaughlin:

No person will bother you. You will be protected by the laws of the Government.

Ebenezer:

We are afraid to go and see our friends off the reservation. We are afraid on account of these cowboys.

Red Cap:

That is not good. That is what I say. This Agency down here, it is on the reservation. You do not know where it is: you have not seen it. It is right there, however; nobody can pick it up and throw it aside, no matter how big a man he is. Your talk is not good. I like this land. I want you to say "Yes". It will not be good if you don't say "Yes."

Inspector McLaughlin:

Replying to my friend Red Cap, I would say that I know that you are attached to the land, and it is to secure the best part of it for each of you that I was sent out here by Washington. My friends, if the entire reservation was of any benefit to you, and you could make proper use of it all, you would not be disturbed in its possession. But there is more land here than you need. Congress has provided for the opening of this surplus land in the way I have explained. Washington desires to secure for each of you, and for each of your children, such a tract as you may select.

Sockive:

Can you hear what I say? We will not give this land up.

Inspector McLaughlin:

I have heard all your speakers have said, but do not think it is the real sentiment of a majority of the people of this reservation.

Sockive:

You keep saying the same thing. That's the reason I keep saying the same thing to you. I talk to you the same as you have talked to me.

Inspector McLaughlin:

There is a great difference my friends, between your talk and my talk. I bring to you a message from Washington and am speaking to you now as a friend. There is a great difference between the talk I am giving you and what you are giving me. I am here to represent the great Government of the United States in this matter. I explained to you the law which has been enacted by the Great Council, the law that has been approved by the President of the United States, whom you call Washington. I have explained to you that it will make no difference what you say as to whether the law will be carried out or not. Your protests that you keep making to me, even if made to the President himself, would not change it because it is already a law. Our record is loaded down with all that has been said by you people and be me in regard to this matter. (Holds up records of previous meetings) I will forward all this to Washington, the Commissioner, the Secretary, and possibly the President himself will read it. This will show what we all have said. I talk to you very plainly trying to explain the Act of Congress. Your talk has been simply along one line, and that is protesting against the opening of your reservation. My friends, you seem not to have grasped the thought that what you have been discussing is already past, and all your talk on that line amounts to nothing. You are on record as being opposed to it. The reservation, my friends, will be opened up notwithstanding your protests.

I will repeat what I have said before, that it is unnecessary to discuss on that line any further. The question that you should give your attention to is whether you want to accept allotments or not,—not the opening of the reservation because that is already provided for.

Quinn:

These people, what do they say to you? Where did you find the key to this reservation to open it? That's

the reason I don't understand even if you do say it is provided for. I don't believe it. You say you are here, and that you have this paper as your authority.

If they find the key to this reservation, to open it we will give it to you. You come and throw it on the table and say, "Here, I have the key to this reservation. Throw it down here so I can see it. When you throw your key to the reservation out here, I will believe you.

These people who are taking this land, have they money to buy this land? Will they give us all the money the land calls for? I will not give it to you even if you say that.

Inspector McLaughlin:

It is not to me the land is going: I am not taking it.

Wanrodes:

My friend, I like these mountains and I like this water; I like the timber; I like the coal in the coal mine. The mountains have range for my horses. I do not think Washington will take away what he told me I had got. Here am I and Henry Harris and some others around here. We want to keep this. They all say we want to keep all these things. We want a place for our horses to graze.

Here are these people, David Copperfield, John Duncan, and others: they want to hold these mountains and this water. We want to keep them. We have farms down here on the Bench where there is no timber: we want to hold those farms, and we want to hold some of this timber up here in the mountains too. I want you tell the truth, and not tell anything crooked.

I do not like this 250,00 acres of pasture land. I have a cattle range at Rock Creek west of here and north of Strawberry River. What will they do with my cattle range? I want you to fix it so I can hold that piece of land.

Here is Henry Jim. He was talking to me yesterday evening. Henry Jim said that your talk is good, it is all right. He liked it.

I would feel more satisfied if you could say it was more than 40 acres for one person. I have lots of cattle. I hear that if we do not come to you and say that we agree, you will go back and say: "These Indians would not agree to this." Then they will come back and give me land. I do not like that. I want to pick my own land.

Now here is Hump. He has come to live with the Indians. I do not like anyone to carry a gun on the reservation. I have my farm that Colonel Randlett made for me and I want to hold it. I have a good farm from which I sell hay and get $8.00 a ton. Some times I get 400 dollars from it and I put it in my pocket, and I like that. I like what you say. I like it that I can go where I wish without a pass. I can go and see my friends the Bannocks or anyone else.

Now I want you to give me my piece of land on Rock Creek where my cattle are.

Game:

You are come to talk with these Indians, you see your friends here. You are just come to talk with these Indians here now, and you are not going to take any of our land. That is the reason I talk to you this way. That is the way everybody talks to the White Man. You sit here and you have heard what everybody is saying. I want this reservation to be here still as it has always been. This is where we have been raised.

Charley Mack:

They ask now what the Indians say. I heard what you were saying. The Indians here have been listening to your talk and I have been listening too. I don't quite understand that Congress talk. These Indians used to be good friends to the Government. When the Government was fighting the Cheyennes and Arapahoes, our Indians

used to go as scouts for the Government. The Government said: "we will stop this spilling blood, we will not have any more fighting." The Indians said, "All right." and it was done. The Indians kept their word in this, and now this thing comes out here and we do not understand it. Why are they talking this way? Why are they opening this reservation? What is the reason Congress did not talk that way before? They used to be holding back; they did not want to see this reservation opened. Now they come and say: "Open it up." What is it? Why is it? What have we done? I don't like the way Congress has been talking.

Before they passed such a law, someone ought to have come here and spoken to the Indians first. That is the reason the Indians are so scared,—it has come so sudden. They were not expecting anything like this. That is the reason they are so scared.

What are the Indians going to do? It is like sand. You throw water upon sand and it will cave in and wash off: so with Indians, after a while there will be none left. The reason the Indians are so scared is there is no more land. If they take this land away from us we can find no more land to go to. We are done for. We are afraid of the Mormon people. They do not like the Indians. If an Indian goes into a Morman's pasture for his horses, the Mormon would kill him. That's the reason they are afraid. This opening business is the same way. The Indians will have a farm near a White Man's. If the Indian tries to get water for his farm, some White Man will stop this, and maybe take a shovel and strike him on the head. There will be a lot of drawbacks. Many of these young men here, cannot talk English. There will be disagreements and quarrels all the time.

Now, when you go back there you can tell those people in Washington that I am not mad. I do not want anyone to do me up. I do not understand why Congress came to this. How was it? These Congressmen must have been

scared by some rich man. They may be afraid of the people who elect them, that if they did not pass it they would not be elected to Congress again.

That's why I am afraid to change my mind, I cannot, because I do not understand why it was passed so soon. I want it the same old way and keep the reservation just as it has been.

Tim Johnson:

These White Men who have farms on the bench take too much water for their grass. If many White men come in here they will hold all the water and make the Indians pay for what they want. These Indians will gain nothing by letting their land go. You will not listen to the Indians. You are getting a lot of money, you are getting paid for this. Over in Heber City they have a tunnel and they are stealing water from the reservation. The fishes in the streams, the White men will steal them from us. They come over and kill the fish with dynamite. You talked to me before in this house. You told me to put my children in school. You said then, "The White Men will not bother you about your land at all." Now it is changed. You said, "If any White Man comes here about your land don't you listen to him." Where have you thrown that talk now? You were there when this law was passed in Congress, and you ought to have told Congress that you had promised us to hold back. It seems that you had thrown Washington's mouth away. I am not telling you this because I am mad. I am telling you this because you are my friend. Now I want you not to say anything more. You can't gain anything by talking here any longer.

Inspector McLaughlin:

I feel called upon to correct some statements of my friend, Tim Johnson. True I visited this Agency two years ago and advised you to place your children in school. I also said you need not fear anything from the

Whites; that you would be protected from the White Man on your reservation. But I never said to you that you need not listen to an official of the Department who visits you to talk to you under orders of the Government. The President has power to send his officials to any place in the United States, and when he gives them an order it has to be obeyed, and I am here under such an order. I will also say that I was not in Washington last winter when this law was enacted. I was there the winter before when they were discussing your affairs and I did what I could to have that item of $70064.48 appropriated to pay you for the Uncompahgre allotments (212) on your reservation and for the strip of land east of the Uinta River opposite Fort Duchesne which you complained to me about when I was here two years ago. The first Act provided for the withholding of that money until you consented to take your allotments and I spoke to the Department officials about it, as I regarded that money due you from former agreements. The President required Congress to pass a joint resolution eliminating that clause before he signed the Indian Appropriation Act of last year. I did everything I could for you in that matter a year ago last winter. I spoke to several Senators about it when it was under consideration and told them that you ought to be paid that money as it was due you from the Government. And I was very glad when I saw in the newspapers that you were going to receive that money without waiting for your consent to accept allotments. I was your friend in that matter and Tim Johnson's insinuations as to my being unfriendly to you was unkind. There was no power or influence that could change the will of Congress in enacting this law which passed last winter in regard to your reservation because under the decision of the Supreme Court, which I have mentioned so often, Congress had the right and the power to so legislate, and did so. The law has been enacted and your reservation will be opened under its provisions, and

it is to make it better for you that I would wish you to accept your allotments under the provisions of the Act. It would be pleasing to the President, the Secretary, and the Commissioner, and also to Congress, on whom you have to depend in future.

I feel, my friends, that I have done my duty in this matter. I have explained it so clearly that you cannot fail to understand it fully; but it is very difficult to convince persons who do not want to be convinced. We have been discussing this matter for the past five days, but our councils have been dominated by a few persons who seem to have intimidated and deterred those from speaking who might have expressed opinions in conflict with theirs. Those who have spoken failed to discuss the question I have placed before you. You do not seem to have considered the advantages that allotments would bring. Your speeches have been on another line:—that of retaining your reservation. Feeling that I have done my duty and that there is nothing that I have left undone, and believing that if we continued our councils for a month, with the same speakers dominating our councils, that I would be unable to bring you to my way of thinking, and feeling that it would be time wasted to continue longer, I will call you together only once more.

Tomorrow will be our last council. My friends for your good, for your welfare, and for your future prosperity, I feel it my duty to leave nothing undone,—and will therefore prepare a paper for the signatures of those consenting to the Act, and bring it here tomorrow, and read it to you in full council? Those desiring to accept allotments can come to the office at any time after I read it to you in council and sign their names. I will prepare the paper referred to tonight or tomorrow morning, and read it and explain it to you here in council tomorrow at two o'clock p.m. Then, any of you wishing to sign, can come to the office and attach your signatures to it. Those who do not wish to sign, well and good,

each individual should be privileged to do as he wishes in the premises.

We will now adjourn til 2 o'clock to morrow afternoon, and I hope that you will all be present, as it will be our last council.

Council adjourned at 6-15 p.m.

Council reconvened at 2 o'clock, Saturday May 23d, 1903, with 134 Indians in attendance.

John Reed and Vernie Mack interpreting.

Inspector McLaughlin:

My friends, according to agreement yesterday evening at the time of adjournment, we now meet that I may read the paper which I have prepared for the signatures of those who wish to subscribe to it. It is very short, but meets requirements. (reads)

Uintah Indian Agency, Whiterocks, Utah
May 23, 1903.

We, the undersigned, adult male Indians of the Uintah and White River Utes of the Uintah Reservation, in the State of Utah, in consideration of the provisions of the Indian Appropriation Act of May twenty-seventh, nineteen hundred and two, amended by a paragraphgraph in the Act of Congress of March third, nineteen hundred and three, making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June thirtieth, nineteen hundred and four, and for other purposes, hereby give our assent to the provisions of said Acts, and hereby ratify and accept the same.

In witness whereof we have hereunto set our hands and seals this twenty-third day of May, nineteen hundred and three."

I have prepared this in duplicate, the two copies just alike. I hand one of them to your Agent that he may file it in his Office.

My friends, we have held six councils and have been discussing this matter for the past six days. This is the last public council that I intend holding with you for this purpose. When we adjourn to day it will be the final adjournment. I feel that I have done my full duty in placing this matter before you people that you might understand every clause and phase of it. And I am confident that each and every one of you understands the full meaning of this new law, and it is now for you to determine whether you consent or not to the acceptance of your allotments under the provisions of the Act. All consenting can sign this paper which will be in the Agency Office while I remain, and I will be here for three or four days yet. Any person desiring to sign can come to the Office and subscribe his name to this paper. Every Uintah and White River Indian here has the right to determine for himself in the matter and express his individual preference. It is not my intention nor the wish of any Government Official that any undue influence or coercion be used in obtaining your signatures. You are each and all free to sign this paper or not, just as you may feel disposed. Every word spoken in our councils has been recorded by the Stenographer and I have 45 pages of typewritten transcript here which contains the first three days' Councils. All that you have said and what I have said is shown in this record, and will be forwarded to Washington for the Officials there to read.

That is why I will have to remain here for three or four days yet to have the transcript written up from the notes which the Stenographer has taken down. There are two copies exactly alike, both made at one time by the same tick of the typewriter. This copy will be left with your Agent here for reference, so that any one of you wishing to recall what has been spoken, may do so by calling on your Agent. I wish to say that I am much pleased at the way you have conducted yourselves throughout our councils, and I will so report it to the Department. Now, as your friend, I have a few more remarks to make before leaving you.

Any person wishing to sign this paper must be allowed to do so without intereference on the part of any other person. If any of you wish to speak further, I am ready to hear what you may have to say, and no person should disturb another while he is speaking. It is discourteous and improper for any person to interfere or interrupt another while he is speaking. Every one of you has the same right to be heard.

Sowsonocutt:

I say that I don't believe your talk here, and I am not going that way.

Inspector McLaughlin:

You need not sign if you do not want to. You have talked so often and all in the same strain that it is unnecessary for you to speak further along this line. All that you have said in protest is shown in the record, and it will go before the Department.

Remember that any man signing this paper, his signature will show that he has consented to the provisions of the Act which I have fully explained to you.

Henry Harris:

Charley Mack and others here have requested me to say that they would like to hear our Agent, Captain Mercer, express himself about this.

Captain Mercer:

Mr. Inspector, I am going to speak a few words in behalf of the Indians in response to the request for me to do so.

There are a few Indians here who, it would seem, do not understand the difference between accepting allotments and acceeding to the opening of the reservation. Others who do not believe that there is a law to open their surplus lands, or believing it, say they do not want their lands opened nor allotments made. These Indians have talked and their talk has gone on the records to be

sent to Washington. There is no one yet who has stated and gone on record that he would accept his allotment, yet there are Indians who understand the law and know it is not the question as to whether their lands should be opened or not. That is settled by the law, and they do not care to talk of it. These Indians I speak for knowing the law and understanding it, know that it is no question to discuss. They are friendly to the Government, the Government is friendly to them. They have asked me to send a friendly message through these records to their friends in Washington. They want their words to go to the Commissioner, the Secretary, the Senate and the House of Representatives. They want to say to them, "Friends, you have forgotten some very important things in your law, very important to us. We would like to have you consider them. We believe that when you have considered them you will change the law to the extent that you will grant us these favors." They say that they have quite an industry here,—they have a coal mine. From that mine, they have hauled to the schools and agencies 200,000 pounds of coal. Since I have been here, less than two months, they have delivered at the Post from the mine, 100,000 pounds of coal for which the War Department pays $6.80 per ton. This has offered them a chance to get a little ready money which they will need and are glad to take advantage of. In addition to that, they have been in the habit of selling wood to the schools and to the Post, and I have put in a bid to the Post in behalf of these Indians, for 1600 cords of wood for next year. I expect to secure thereby an opportunity for these Indians to furnish this wood at $8.50 per cord; I have also offered in their name, to furnish 500,000 pounds of coal for which I expect them to receive $6.80 per ton. Now, our friends in Washington will see that we have industries here, which the Indians handle themselves under the supervision of the Agent. It has been said that these Indians would not work. These Indians will work, and work well. They say, "Our new Agent pays us promptly." That is all they

want. They must have food for themselves and horses; they are not capitalists, and they cannot work two, four, or six months without pay, as they have been obliged to do. They like the plan of getting weekly payments which I have arranged for them at my own risk,—the money being allowed but not on hand. More than two hundred have been working since I took charge,—this in addition to those who have worked on their farms.

The law provides that the allotments shall be made on lands which can be watered; that is right. These are good lands for farming, but their friends in Washington have forgotten that they have taken away the timber from them. There is no timber on these lands. I suppose there will be 1,000 allotments made upon these lands. I judge that on these allotments, there will not be 50 cords of fuel. There are no trees for fense posts, no logs with which to build their houses. All the coal and timber are on these lands which are to be opened for settlement. Now these Indians here, who know that the coal and timber are to be taken, want to be friends of the Government, and they would like to see such alterations in the law as to prevent the entire deprivation of their timber and coal resources. Logs for their houses, posts for their fences, and wood and coal to burn for fuel,—are all to be disposed of. Some of this coal should be secured to them. There is a big vein of coal that runs along these mountains just back of us for 40 miles. The Indians would like to secure of that coal land just a little patch, say 160 acres,—within 8 miles of this Agency, where some very good coal can be mined, and a good road running to it whereby coal can be hauled from the mine. If the one small tract where that coal is convenient to them could be reserved for the Indians, they would have plenty of coal for the next 50 years. The Indians say that if all this coal and timber land is opened to settlement, they will be obliged to buy their fuel of the new possessors $6.80 per tone for coal, and from $6.00 to $10.00 per cord for wood. They must

have fuel to burn and lumber for their houses. There is another matter: the Agency saw mill about 13 miles from the Agency, a fine plant,—that saw mill and the ground around it should be reserved for the Indians. The timber and wood for several miles about it should be secured to them. The timber is near the mill scattered over the rough mountainous country,—lands unfit for farms, and it is believed without value as mineral lands. There is plenty of timber and fuel for the White Men on other lands that are to be disposed of. That saw mill gives them square logs for building common houses, flooring, shingles, and laths. Most of the lumber used in this vicinity is shipped in from Oregon and costs a great deal of money. It is very necessary that they have some timber from which to make their own lumber. Another thing about which they are very anixous is the water that runs in the streams through this reservation. Of course the lands need water. There is more than enough water in these streams to irrigate all the lands, and for all other purposes, but they ask their friends in Washington to make provision to secure them enough water so that the White settlers, through waste or averice, will not in the future be able to take it away from them. Under official hydrographic survey, measurements for the volume of water in these streams have been taken at regular periods for the last four years, and data pertaining to this work can be obtained in Washington. They trust that their friends in Congress can secure to them for all time, a sufficient quantity of this water for their allotments so that they will never be deprived of it, by the White man. The Agency, the School, and the Hospital lands are not mentioned in the law; that should be provided for. It can, of course, be done without changing the law; it can be be withdrawn from settlement by executive order. These are the things which they hope their friends in Washington did not put in the law because they forgot to consider them. They send their frendly message to them, hoping they will amend the law and yet secure to

them those resources which are absolutely necessary to their existence.

Now I want to say a few words to the Indians:

My friends, I have sat in the council for six days and heard every word you have spoken. I think I know what is passing in your minds.

You seem to think that under the new condition you cannot have freedom to move about as now. As far as that is concerned you will probably never know the difference. You will have your roads; you will have your Agency, just the same as now, and you can come and have your camping grounds at the Agency, and visit among yourselves as now. Your Agent will remain here with you, and you will be protected just the same as you are now. Instead of being one big tribe of Indians, one bunch, one herd, every man can stand up straight and feel that he is a freeman, a citizen of this great country,—just the same as the White Man. Those who have farms now will have the same secured to them as far as possible.

Now, I want to say to you that I was in Washington on the third day of March last. I sat in Congress. The Commissioner sat by my side, and we heard Congress making that law which the Inspector has read to you, and I am sent here to you to be your Agent under the new conditions which are to replace the old ways. I understand that my duties are to look out for you and protect you under that law. That is the way the matter stands now. It is not what many of you seem to want, but it is the way it stands now. My friends, we will have to live under the law the Inspector has explained to you. I am glad that he came here because he has told you all about it. If he did not tell you, it would by my duty to tell you what he has told you. A good many do not seem to believe it is the law. I know that after he goes away, I will have to tell you about it. So I prefer to do it now. What the Inspector has told you,—every word of it,—is true. I know many of you do not like it. I know many of you would have it changed, and still many more

would like to see the law modified to secure to you some of the coal and timber, and you know that from what I have said to the Inspector, that I agree with you in that respect. These are important matters that have been left out by accident, and these things should be put in. Now the best way to get them, my friends, is to accept this law and show that you are going to do the best you can. And then we will probably be able to secure our own coal, our timber, and our water. I have been with you for only a short time, but I know all about you. I have good feelings for all of you, and knowing and feeling towards you as I do, I say if I were an Indian, I would say to our friends in Congress, "You want us to sign this; you want us to carry out what you believe to be best for us and for the White People." And then by showing my good will, try to secure these things which were left out. If I were a White River or a Uinta, I would walk up there and sign my name to that paper.

My friends, I am going to stay with you long enough so that every one of you will be able to see that I am your friend and that I have a straight tongue.

Inspector McLaughlin:

My friends, I have listened attentively to the speech made by your Agent, first to myself and then to you people.

The appeal that your Agent has made, speaking for you, for a timber reserve and a coal reserve, I regard as a very just appeal. And when it is brought to the attention of the proper officials and Congress, I am in hopes that they will see the justice of doing something of that kind for you. Everything said here has been taken down, and will show in the records of our Councils, and I promise tc unit with your Agent and do what I can, by proper representation of the matter, in trying to have such reserves set apart for you.

My friends, your Agent's advice has been all that a father could give his children, and no father will give his

child counsel that is not for his best interest. Your Agent has advised you for your best interest, and all good children should look up to their father and listen and obey his advice.

My friends, I repeat again, that I am very much pleased with your courteous treatment of me since I have been here with you, but before closing our council I am going to give you another piece of advice. This paper which I have read to you will be at the Agency Office while I remain here, and I would like to see all of you come in and sign it, at least a sufficient number to make it acceptable to the Department, so that I can have the required number of names attached to the paper that will go forward to Washington. The Government at Washington is your best friend and does not wish to impose any hardship upon you people, and does that which is for your best interests. I have already told you that the survey of your lands has been advertised for (that is put in the papers) and the survey will soon be authorized. The surveyers will soon come upon the reservation and commence to survey the lands,—this being necessary in carrying out the law. Now, my friends, you must not interfere with these people because they will be under Government authority, and will be under the protection of the strong arm of the Government. Do not think that they are here to do you an injustice or impose any hardship upon you. I speak this so that you will not interfere with them. Remember the White People are not coming in to take farms right away,—not for sixteen months yet.

I shake hands with each and every one of you with a good heart. I leave with no enmity against any of you people and I hope you feel the same towards me. As I said before, I will be here for some days yet, and any of you wishing to sign this paper will find me in the Office. Should I be out, some of the clerks will be there so that you may attach your names to it. This is a matter in which all Indians act individually,—each male person over 18 years of age acting for himself. I have no more

to say to you. This Council now stands adjourned sine die.

Council adjourned at 4-30 p. m.

I hereby certify that the foregoing is a true and correct transcript of the proceedings of Councils held by James McLaughlin, United States Indian Inspector, with the Indians of the Uintah Reservation, Utah, from May 18th to May 23d inclusive, 1903.

/s/ John F. MacKey
Stenographer.

Uintah Agency, Utah, May 26, 1903.

APPENDIX B

LEGISLATIVE AND ADMINISTRATIVE DOCUMENTS CONFIRMING DISESTABLISHMENT OF ORIGINAL UINTAH RESERVATION

Doc. No.	Date	Type of Document	Status Reference
LD 116	Jan. 15, 1906	40 Cong. Rec. 1064	". . . lands which were heretofore a part of the Uintah Indian Reservation . . ."
LD 116	Jan. 10, 1906	40 Cong. Rec. 1332	". . . lands which were heretofore a part of the Uintah Indian Reservation . . ."
LD 117	Jan. 12, 1906	Senate Report 139, 59th Cong., 1st Sess.	". . . lands which were heretofore a part of the Uintah Indian Reservation . . ."
LD 119	Jan. 18, 1906	House Report 291, 59th Cong., 1st Sess.	". . . lands which were heretofore a part of the Uintah Indian Reservation . . ."
LD 120	Jan. 27, 1906	34 Stat. 9	". . . lands which were heretofore a part of the Uintah Indian Reservation . . ."
LD 122	Feb. 9, 1906	House Report 823, 59th Cong., 1st Sess.	". . . Indians on the former Uintah Reservation . . ."
JX 331	Apr. 11, 1906	Opinion of the Asst. Atty. General, I.D. 549	". . . the lands formerly within the Uintah Indian Reservation . . ." (at 549-550)

LD 124	Apr. 13, 1906	Senate Report 2561, 59th Cong., 1st Sess. at 131	". . . the former Uintah Reservation . . .
LD 126	June 8, 1906	Letter from Acting Commr. of Indian Affairs, found in Sen. Rep. 4263, 59th Cong., 1st Sess. at 2-3	". . . the former Uintah Indian Reservation . . ." (at 2, first paragraph)
LD 126	June 11, 1906	Letter from Sec. of Interior, found in Sen. Rep. 4263, 59th Cong., 1st Sess. at 1	". . . the former Uintah Reservation . . ." (at 1, first paragraph)
LD 127	June 21, 1906	34 Stat. 325, 375-376	". . . the former Uintah Reservation . . ."
LD 128	June 25, 1906	House Rep. 5010, 59 Cong., 1st Sess.	". . . the former Uintah Reservation . . ."
LD 129	June 29, 1906	34 Stat. 611	". . . the former Uintah Indian Reservation . . ."
LD 130	June 12, 1906	40 Cong. Rec. 8306	". . . the former Uintah Indian Reservation . . .
LD 130	June 27, 1906	40 Cong. Rec. 9386	". . . the former Uintah Indian Reservation . . ."
LD 131	1906	40 Cong. Rec. Index Senate Bill 321	". . . lands which were heretofore a part of the Uintah Indian Reservation . . ."
LD 131	Apr. 24, 1906	40 Cong. Rec. 3553	". . . for Indians in the late Uintah Indian Reservation . . ."
LD 132	Sept. 1, 1906	Proclamation 34 Stat. 3228	". . . the former Uintah Indian Reservation . . . (at 3228, last paragraph)

Doc. No.	Date	Type of Document	Status Reference
			". . . are hereby restored to the public domain." (at 3229, first full paragraph
JX 336	Sept. 26, 1907	Letters from and to the Acting Commr. of Indian Affairs, respectively	". . . the former Uintah reservation, Utah . . ." (at 1, first paragraph; at 3, first paragraph)
JX 338	Nov. 8, 1907	Letter from First Asst. Secty. of the Interior	". . . the former Uintah Reservation in Utah . . ." (at 1)
JX 339	Nov. 11, 1907	Letter from Chief Clerk of the Office of Indian Affairs	". . . the former Uintah Reservation in Utah . . ." (at 1)
LD 135	Apr. 30, 1908	35 Stat. 70, 95	". . . lands of any Indian of the former Uintah and Umcompahgre Reservations . . ."
LD 136	Dec. 16, 1908	Letter from Commr. of Ind. Affairs, located in House Doc. 1279, 60th Cong., 2d Sess. at 2-3	". . . the former Uintah Reservation (at 2, second full paragraph; 3, last paragraph in letter)
LD 136	Dec. 19, 1908	Letter from Secty. of the Interior, located in House Doc. 1279, 60th Cong., 2d Sess. at 1-2	". . . the former Uintah Reservation" (at 2, seventh line)
JX 341	Dec. 19, 1908	Letter from the Secty. of the Interior to the Secty. of Treasury	". . . the former Uintah Reservation." (at 1, first paragraph; 2, first paragraph; 3 last paragraph; 6, last line)
LD 137	Feb. 24, 1909	35 Stat. 644	". . . the former Ute Indian Reservation . . ."

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LD 138	Feb. 14, 1910	Sen. Rep. No. 219, 61st Cong., 2d Sess.	". . . the former Uintah Reservation . . ." (Note: the words "former Uintah Indian Reservation also appear in the title of the report.)
LD 139	Apr. 4, 1910	36 Stat. 269, 285	". . . the former Uintah Indian Reservation . . ." ". . . the ceded Uintah Indian Reservation . . ."
JX 343	July 9, 1910	Letter from the Acting Secty. of the Interior, 39 I.D. 79	". . . the former Uintah Indian Reservation . . ." (at 79, first paragraph)
JX 345	Feb. 3, 1911	Letter from Commr. of Indian Affairs	". . . the former Uintah Indian Reservation . . ." (at 1, first paragraph)
LD 141	Mar. 31, 1911	36 Stat. 1058, 1074	". . . the former Uintah Indian Reservation . . ." "the ceded Uintah Indian Reservation . . ."
JX 346	May 1, 1911	Letter from Supt. of Irrigation	". . . the former Uintah Reservation, Utah . . ." (at 1, block quote)
JX 347	May 16, 1911	Letter from Acting Commr. of Indian Affairs	". . . the former Uintah Indian Reservation . . ." (at 1)
JX 348	May 19, 1911	Letter from first Asst. Secty. of the Interior	". . . the former Uintah Indian Reservation . . ." (at 1, first paragraph)
JX 349	June 3, 1911	Letter from second Asst. Secty. of the Interior	". . . the former Uintah Reservation . . ." (at 1, first paragraph)
JX 351	June 27, 1911	Letter from Asst. Commr. of Indian Affairs	". . . the former Uintah Reservation . . ." (at 1, first paragraph)
JX 352	July 12, 1911	Letter from First Asst. Secty. of the Interior	. . . "the former Uintah Indian Reservation . . ." (at 1, first paragraph)

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Doc. No.	Date	Type of Document	Status Reference
LD 146	Sept. 23, 1911	Letter from Chief Supervisor, contained in H.R. Doc. 892, 62d Cong., 2d Sess. (July 27, 1912) at 8	". . . the former Uintah Indian Reservation . . ." (at 8, first paragraph of letter to Means)
LD 146	Sept. 30, 1911	Joint Rept. by Special Inspectors to the Secty. of the Interior, contained in H.R. Doc. 892, 62d Cong., 2d Sess. (July 27, 1912) at 1-2	". . . the former Uintah Indian Reservation . . ." (at 1, first paragraph) ". . . and there were restored to the public domain . . . 1,004,005 acres . . ." (at 2, fourth paragraph)
JX 356	June 1, 1912	Letter from Supt. of Uintah & Ouray Agency	". . . formerly a part of the Uintah and White River Indian Reservation . . ." (at 1)
LD 142	June 15, 1912	Sen. Rep. No. 893, 62d Cong., 2d Sess.	". . . the former Uintah Indian Reservation . . ."
JX 357	July 2, 1912	Letter for Second Asst. Commr. of Indian Affairs	". . . formerly a part of the Uintah and White River Indian lands . . ." (at 1, first paragraph)
LD 143	July 8, 1912	H.Rep. No. 943, 62d Cong., 2d Sess.	". . . the former Uintah Indian Reservation . . ."
LD 144	July 15, 1912	48 Cong. Rec. 9012	'. . . the late Uintah Reservation . . ."
LD 145	July 20, 1912	37 Stat. 196	". . . land which was formerly a part of the Uintah Indian Reservation . . ." (first paragraph)

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JX 358	Aug. 8, 1912	Letter from Commr. of General Land Office	". . . land which was formerly a part of the Uintah Reservation . . ." (at 148)
JX 359	October 1912	Dept. of the Interior Memorandum	". . . restored to the public domain . . ." (at 1, line 3) ". . . the former Uintah Reservation." (at 1, line 13) ". . . the former reservation lands . . ." (at 2, line 11) ". . . this is no longer an Indian reservation . . ." (at 3-4)
JX 361	June 7, 1913	Letter from Second Asst. Commr. of Indian Affairs	". . . the former Uintah Indian Reservation . . ." (at 1, first paragraph)
JX 363	May 12, 1914	Letter from Commr. of Indian Affairs	". . . the former Uintah reservation . . ." (at 1, first paragraph)
LD 149	Dec. 7, 1914	Letter from Secty. of the Interior, located in H. Doc. 1250, 63d Cong., 3d Sess. at 2-3	". . . and there were restored to the public domain . . . about 1,004,285 acres . . ." (at 2, sixth paragraph) ". . . the former Uintah Indian Reservation . . ." (at 2, last paragraph; 3, block quote-last line)
JX 366	Feb. 9, 1915	Letter from Commr. of Indian Affairs	". . . the former Uintah Indian reservation . . ." (at 1, first paragraph)
JX 367	May 29, 1915	Letter from Asst. Commr. of Indian Affair	". . . the former Uintah reservation . . ." (at 1, first paragraph)

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Doc. No.	Date	Type of Document	Status Reference
JX 376	Apr. 15, 1916	Letter from Secty. of the Interior	". . . lands within their former treaty reservation . . ." (at 9, second full paragraph)
JX 377	Apr. 26, 1916	Letter from Asst. Attorney General	". . . the former Uintah Reservation . . ." (at 1, first paragraph)
JX 378	May 3, 1916	Letter from Acting Asst. commr. of Indian Affairs	". . . the former Uintah Reservation . . ." (at 1)
JX 379	Aug. 10, 1916	Bill of Complaint in case brought by Secty. of the Interior	". . . as Trustee of the Indians of the former Uintah and Ouray Indian Reservation," (at 1, caption; 2, first line)
JX 382	Jan. 24, 1917	Letter from Asst. Secty. of the Interior	". . . the former Uintah Indian Reservation . . ." (at 1, first paragraph)
JX 383	Feb. 23, 1917	Letter from Asst. Secty. of the Interior	". . . the former Uintah and Ouray Reservation . . ." (at 1, first paragraph)
JX 385	May 19, 1917	Letter from Commr. of Indian Affairs	". . . Indian lands formerly within the Uintah Reservation . . ." (at 1, first paragraph)
JX 388	Feb. 28, 1918	Letter from Sen. Smoot	". . . the former Uintah Indian Reservation . . ." (at first paragraph)
JX 389	Mar. 9, 1918	Letter from Commr. of Indian Affairs	". . . the former Uintah Indian Reservation . . ." (at 1, first paragraph)

JX 390	Apr. 13, 1918	Letter from Asst. Secty. of the Interior	". . . the former Uintah Reservation . . ." (at 1, first paragraph)
JX 391	June 11, 1918	Letter from Sen. Smoot	". . . the former Uintah Reservation . . ."
JX 392	Dec. 3, 1918	Letter from Asst. Attorney General	". . . the former Uintah Reservation . . ." (at 1 first paragraph)
LD 154	Apr. 23, 1920	H.Rep. 901, 66th Cong., 2d Sess. at 1	". . . to the unsold lands formerly included in the Uintah Indian Reservation . . ."
JX 401	Mar. 20, 1922	memorandum from Chief Supervisor of Forests	". . . the former Uintah Indian Reservation . . ." (at 1, second paragraph)
LD 155	May 14, 1920	41 Stat. 599-600	". . . lands in the former Uintah Indian Reservation . . ."
LD 179	Sept. 7, 1922	Letter from Secty. of the Interior, located in H.Rep. No. 370, 77th Cong., 1st Sses. (April 3, 1941) at 9, 12	". . . former Uintah Indian Reservation . . ." (at 9, first and last paragraphs; at 12, first and last paragraphs)
JX 403	Sept. 28, 1922	Letter from Commr. of General Land Office	"ceded Uintah lands" (at 1, first paragraph) "The lands within said former reservation . . ." (at 1, second paragraph)
LD 159	Feb. 17, 1923	H.Rep. 1633, 67th Cong., 4th Sess. at 1	". . . lands in the former Uintah Indian Reservation . . ." (at 1) "These lands were formerly embraced in the Uintah Indian Reservation . . ." (at 2, fourth paragraph)

Doc. No.	Date	Type of Document	Status Reference
LD 162	Feb. 11, 1927	H.Rep. No. 2047, 69th Cong., 2d Sess. at 3	". . . ceded lands"
JX 413	July 27, 1927	Letter from Act. Commr. of General Land Office	". . . former Uintah Indian Reservation . . ." (at 1, second paragraph)
JX 419	Apr. 13, 1929	Letter from Commr. of Indian Affairs	". . . the former Uintah Indian Reservation . . ." (at first paragraph)
JX 423	Sept. 22, 1931	Letter from Director of forestry	"ceded" lands (at 2, line 7) ". . . the former Uintah Reservation . . ." (at 2, first full paragraph) "ceded" lands (at 2, second full paragraph)
JX 424	Nov. 21, 1931	Letter from the Forester	"The balance of the area originally forming the large Uintah-Ouray Reservation of 3,972,490 acres is made up of Indian allotments, homesteads, and ceded lands . . ." (at 3, last paragraph)
JX 430	Oct. 14, 1933	Letter from Commr. of Indian Affairs	". . . the former Uintah Reservation."
JX 441	Apr. 18, 1938	Letter from Director of Lands	". . . the former Uintah and Ouray Indian Reservation." (at first paragraph) "ceded" lands (at first paragraph)

JX 443	November 1938	Report of Regional Forester-Grazing Resources on Uintah and Ouray Reservation	". . . the former Uintah and Ouray Reservation." (at 1, first paragraph; 5, #5; 6, last line) ". . . ceded lands . . ." (at 8, sixth and last paragraphs; 9, second, third, fifth and last paragraphs; 8-a, first paragraph; 10, fourth and fifth paragraphs; 11, first and fourth paragraphs)
JX 444	Jan. 24, 1939	Letter from Supt. of Uintah & Ouray Agency	"ceded" lands (at third paragraph)
JX 450	June 19, 1941	Letter from Commr. of Indian Affairs	". . . the former boundaries of the Uintah and Ouray Indian Reservation . . ." (at 1, first paragraph)
JX 454	Jan. 27, 1947	Opinion of Interior Solicitor, 59 I.D. 393	"Allotments were made to Indians entitled to allotments within the area, and the balance of the lands . . . were restored to the public domain . . ." (at 393, second paragraph)
JX 455	Undated	Stipulations, *The Uintah and White River Bands of the Ute Indians v. United States*	". . . allotments in severalty . . . were made to the Uintah and White River Indians, and surplus lands . . . were restored to the public domain . . ." (at 10, last paragraph) ". . . the former Uintah Reservation . . ." (at 11, eighth line; 14; paragraph 22; 17, paragraph 25, 23, paragraph 26)

Doc. No.	Date	Type of Document	Status Reference
			". . . the former Uintah Indian Reservation . . ." (at 15, first line; 15, paragraph 23; 17, third full paragraph)
LD 200	Mar. 26, 1956	Letter from Asst. Secty. of the Interior, located in H.Rep. No. 2171, 84th Cong., 2d Sess. (May 16, 1956), at 4-6	". . . lands formerly a part of the Uintah Indian Reservation." (at 4, first paragraph of letter)
LD 200	Mar. 23, 1956	Letter from Asst. Attorney General, Lands Division, located in H.Rep. No. 2171, 84th Cong. 2d Sess. (May 16, 1956), at 6-8	". . . lands formerly a part of the Uintah Indian Reservation." (at 6, first paragraph of letter)
LD 200	Mar. 26, 1956	Letter from Acting Secty. of Agriculture, located in H.Rep. No. 2171, 84th Cong. 2d Sess. (May 16, 1956) at 8-10	". . . lands formerly a part of the Uintah Indian Reservation." (at 8, first paragraph of letter)
LD 201	Apr. 16, 1956	Letter from Asst. Secty. of the Interior, located in S.Rep. No. 2372, 84th Con. 2d Sess. (June 27, 1956) at 3-5	". . . lands formerly a part of the Uintah Indian Reservation." (at 3, first paragraph of letter)
LD 201	Mar. 26, 1956	Letter from Asst. Attorney General, Lands Division located in S.Rep. No. 2372, 84th Cong. 2d Sess. (June 27, 1956) at 5-7	". . . lands formerly a part of the Uintah Indian Reservation." (at 5, first paragraph of letter)
LD 201	Mar. 26, 1956	Letter from Acting Secty. of Agriculture, located in S.Rep. No. 2372, 84th Cong. 2d Sess. (June 27, 1956) at 7-9	". . . lands formerly a part of the Uintah Indian Reservation." (at 7, first paragraph of letter)

LD 201	Mar. 26, 1956	Letter from Director of Bureau of the Budget, located in S.Rep. No. 2372, 84th Cong. 2d Sess. (June 27, 1956) at 9	". . . lands formerly a part of the Uintah Indian Reservation." (at 9, first paragraph of letter)
LD 203	July 14, 1956	P.L. 717, 70 Stat. 546, 548	". . . the former Uintah Reservation . . ." (Sect. 6, second line)
JX 469	Nov. 18, 1964	Memo from Solicitor	"In 1902, Congress provided for an allotment and restoration of the balance of unalloted land . . . to the public domain . . ." (at 2, third paragraph)
JX 482	Undated	Memorandum from Comms. of Indian Affairs	". . . the bulk of the unallotted lands of the Uintah and Ouray Reservation in Utah were to be restored to the public domain . . ." (at 1, first paragraph)
LD 210	Oct. 1, 1971	Secretarial Order, 36 Fed. Register, No. 198, p. 19920	". . . most of the unallotted lands of the Uintah and Ouray Reservation in Utah were restored to the public domain . . ." (at 19920, second column, first full paragraph)

APPENDIX C

LEGISLATIVE AND ADMINISTRATIVE DOCUMENTS CONFIRMING DISESTABLISHMENT OF ORIGINAL UNCOMPAHGRE RESERVATION

Doc. No.	Date	Type of Document	Status Reference
JX 108	Sept. 26, 1898	Report of the Commr. of Indian Affairs	". . . the late Uncompahgre Reservation . . ." ". . . the former Uncompahgre Reservation . . ." (at 43, second full paragraph)
LD 61	March 1, 1899	Act, 30 Stat. 924	". . . the former Uncompahgre Indian Reservation in Utah . . ." (at 940, last paragraph)
JX 113	April 12, 1899	Letter from Commr. of Indian Affairs	". . . the former Uncompahgre Indian Reservation in Utah . . ." (at 1, third paragraph)
JX 115	Aug. 21, 1899	Report of the Uintah and Ouray Agency	". . . the former Uncompahgre Reservation . . ." (at 352, second line)
JX 117	Sept. 30, 1899	Report of the Commr. of Indian Affairs	". . . the former Uncompahgre Reservation . . ." (at 32, last line; 352, second line)
LD 86	1902	Report of Cyrus C. Babb, U.S. Geological Survey (at 13)	". . . what was formerly the Uncompahgre Indian Reservation . . ." (at 19, third paragraph)

LD 91	March 3, 1903	Act, 32 Stat. 982	". . . the former Uncompahgre Indian Reservation . . ." (at 989, first full paragraph)
JX 170	July 28, 1903	Letter from Commr. of Indian Affairs	". . . what was formerly the Uncompahgre Reservation . . ." (at 1, fourth line)
JX 173	Aug. 31, 1903	Letter from Clerk to Agent Mercer	". . . the former Uncompahgre Reservation . . ." (at 1, fourth line)
LD 92	Nov. 30, 1903	Letter from Secretary of the Interior	". . . former Uncompahgre Reservation . . ." (at 1, last paragraph)
LD 92	Nov. 23, 1903	Letter from Commr. of Indian Affairs (at 2-3)	". . . former Uncompahgre Reservation . . ." (at 2, second and fifth paragraphs; 3, first paragraph)
JX 92	Aug. 31, 1903	Letter from Asst. Clerk (at 10)	". . . former Uncompahgre Reservation . . ." (at 10, first and last paragraphs)
LD 101	Nov. 3, 1903	Letter from Commr. of Indian Affairs (at 15-16)	". . . former Uncompahgre Reservation . . ." (at 15, second and fifth paragraphs; 16, first paragraph)
LD 101	Nov. 30, 1903	Letter from Secretary of the Interior	". . . former Uncompahgre Reservation . . ." (at 16, second paragraph)
JX 186	July 6, 1904	Letter from Acting Commr. of Indian Affairs	". . . the former Uncompahgre Reservation . . ." (at 5, line 3)
JX 198	Oct. 17, 1904	Report of Commr. of Indian Affairs	". . . the former Uncompahgre Reservation . . ." (at 347)

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LD 103	Jan. 20-March 2, 1905	Excerpts from 39th Congressional Record	". . . former Uncompahgre Indian Reservation . . ." (at 1181, first paragraph, left column)
JX 216	Jan. 23, 1905	Letter from Indian Agent Hall	". . . the former Uncompahgre Reservation . . ." (at first paragraph)
JX 224	Feb. 24, 1905	Letter from Indian Agent for Uintah and Ouray Agency	". . . the former Uncompahgre Reservation . . ." (at 3, first full paragraph) ". . . the old Uncompahgre Reservation . . ." (at 3, last paragraph; at 5, first full paragraph)
JX 232	Mar. 13, 1905	Letter from Acting Commr. of Indian Affairs	". . . the old Uncompahgre Reservation . . ." (at 1, first full paragraph)
JX 287	July 15, 1905	Letter from Acting Commr. of Indian Affairs	". . . the old Uncompahgre Reservation . . ." (at 1, second paragraph)
JX 323	Sept. 30, 1905	Report of the Commr. of Indian Affairs	". . . the former Uncompahgre Reservation . . ." (at 146, last paragraph)
JX 328	Nov. 27, 1905	Report of the Secretary of the Interior	". . . the former Uncompahgre Reservation . . ." (at 1893, first full paragraph)
JX 332	June 6, 1906	Presidential Proclamation, 34 I.D. 648	". . . in the former Uncompahgre Indian Reservation . . ." (at 648, title) ". . . the former Uncompahgre Indian Reservation . . ." (at 648, second block quote) ". . . in said former Uncompahgre Indian Reservation in Utah . . ." (at 649, first full paragraph)
JX 333	June 25, 1906	Circular from Commr. of General Land Office, 34 I.D. 650	". . . former Uncompahgre Indian Reservation . . ." (at 650, Title, first and second paragraphs; at 651, twelfth paragraph; at 652, bid form)
JX 340	Mar. 14, 1908	Letter from Acting Commr. of Indian Affairs	". . . the former Uncompahgre Indian Reservation, in Utah . . ." (at 1)
LD 135	April 30, 1908	Act, 35 Stat. 70	". . . the former Uintah and Uncompahgre Reservations . . ." (at 95, second to last paragraph)
LD 150	Jan. 7, 1915	Letter from Secretary of the Interior	". . . the former Uncompahgre Indian Reservation . . ." (at 1, first and second paragraphs)
LD 150	Feb. 18, 1915	Senate Report No. 1002, 63d Cong., 3d Sess.	"Gilsonite lands within the former Uncompahgre Indian Reservation, Utah." (at 1, Title) ". . . the former Uncompahgre Indian Reservation . . ." (at 1, first paragraph; 1, block quote—first & second paragraphs)
LD 151	April 12, 1916	Letter from Director of U.S. Geological Survey	". . . the former Uncompahgre-Ute Indian Reservation . . ." (at 2, first full paragraph)

Doc. No.	Date	Type of Document	Status Reference
LD 151	May 5, 1916	House Report No. 642, 64th Cong. 1st Sess.	". . . the former Uncompahgre Indian Reservation . . ." (at 1, first paragraph; 1, block quote—second paragraph; 2, first full paragraph; 4, last paragraph) ". . . the lands of the former Uncompahgre Indian Reservation were restored to the public domain . . ." (at 3, last paragraph)
LD 152	May 12, 1916	Excerpts from 64th Congressional Record	". . . former Uncompahgre Indian Reservation . . ." at 7862, left column, last paragraph; right column, second, fourth & fifth paragraphs)
JX 404	Oct. 3, 1923	Letter from Chief Clerk, Office of Indian Affairs	"allotments were made to the Indians and the remainder was restored to the public domain . . . pursuant to the Act of June 7, 1887 . . ." (at 1, second paragraph)
JX 426	1931	Memorandum	". . . lands formerly included in the Executive Order Reservation of January 5, 1882." (at 1)
LD 166	Jan. 28, 1931	Excerpts from 74th Congressional Record	"The Indians have been given allotments on their former reservation." (at 3406, right column)

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JX 428	June 12, 1933	Letter from Commr. of Indian Affairs	"The lands not included in individual allotments were restored to the public domain . . ." (at 2, first paragraph)
JX 433	1934-35	Memorandum by Director of Forestry	". . . the old Uncompahgre Reservation . . ." (at 2, second paragraph)
JX 435	July 19, 1935	Letter from Commr. of Indian Affairs	". . . the ceded Uncompahgre Reservation . . ." (at 1, first paragraph; at 2, second full paragraph) ". . . the former Uncompahgre . . ." (at 2, third paragraph)
LD 174	Mar. 11, 1936	Letter from Acting Secretary of the Interior	". . . the former Uncompahgre Ute Reservation . . . subsequently restored to the public domain . . ." (at 1, last paragraph) ". . . the former Uncompahgre Ute Reservation . . ." (at 1, last paragraph) ". . . the former Uncompahgre Ute Reservation . . ." (at 2, first paragraph) ". . . the former Uncompahgre Reservation . . ." (at 2, last paragraph) ". . . the former Uncompahgre Executive order reserve of January 5, 1882, all of which was restored to the public domain . . ." (at 2, last paragraph)

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Doc. No.	Date	Type of Document	Status Reference
LD 174	Apr. 13, 1936	House Report No. 2339, 74th Cong., 2d Sess.	". . . the former Uncompahgre Ute Reservation . . ." (at 1, block quote—second paragraph) ". . . the former Uncompahgre Indian Reservation . . ." (at 1, block quote—second paragraph) ". . . the former Uncompahgre Ute Reservation . . ." (at 2, second line)
JX 436	Nov. 17, 1936	Letter from Assistant Commr. of Indian Affairs	". . . the ceded Uncompahgre Reservation . . ." (at first paragraph) ". . . action in creating the proposed new Uncompahgre Reservation . . ." (at second paragraph)
JX 437	Dec. 4, 1936	Letter from Director of Forestry	. . . the ceded Uncompahgre Reservation, Utah."
JX 438	December 1936	Preliminary Report of Range and Erosion Conditions	". . . This reservation . . . was restored to the public domain . . ." (at 1, second paragraph) ". . . formerly a part of the Old Uncompahgre Reservation and which is now largely public domain . . ." (at 2, first paragraph)
JX 444	Jan. 24, 1939	Letter from Supt. of Uintah and Ouray Agency	". . . the old Uncompahgre Reservation . . ." (at second paragraph)

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JX 445	Mar. 21, 1939	Letter from Supt. of Uintah and Ouray Agency	". . . the old Uncompahgre lands . . ." (at second paragraph)
JX 446	July 20, 1939	Memo from Director of Grazing	". . . the old Uncompahgre Indian Reservation." (at first, second and third paragraphs) "ceded" Indian lands (at second paragraphs)
JX 447	Aug. 8, 1939	Letter from commr. of Indian Affairs	". . . the undisposed of lands within the former Uncompahgre Indian Reservation, Utah, have the status of public lands . . ." (at first paragraph) ". . . the old Uncompahgre Reservation . . ." (at second paragraph)
JX 448	Oct. 18, 1939	Letter from Sup. of Uintah and Ouray Agency	". . . the former Uncompahgre Reservation . . ." (at first paragraph)
JX 449	Oct. 25, 1939	Letter from Regional Forester	". . . the former Uncompahgre Reservation . . ." (at 1, first paragraph)
JX 451	Feb. 6, 1943	Statement	". . . the former Uncompahgre Reservation . . ." (at 1, first paragraph; 1-2, page turn; 3, second paragraph; 4, fifth line; 4, last paragraph; 5, first paragraph; 5, second paragraph; 13, last paragraph; 14, third paragraph) ". . . Congress returned the 1,900 acres of the Uncompahgre Reservation to the public domain [ ] leaving

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Doc. No.	Date	Type of Document	Status Reference
			83 allotments . . ." (at 2, second full paragraph) ". . . the old Uncompahgre Reservation . . ." (at 3, first paragraph; 4, last paragraph; 7, first block quote; 7, last block quote) " . . . the public domain on their former reservation . . ." (at 3, third paragraph) ". . . the former reservation . . ." (at 3, third paragraph) ". . . returning the unallotted lands of the reservation to the public domain . . ." (at 4, last paragraph) "ceded" lands (at 10, fifth & seventh paragraph; 11, first full & last paragraphs)
LD 181	Feb. 19, 1943	House Repart No. 143, 78th Cong., 1st Sess.	". . . the Ute Indians had a large reservation . . . known as the Uncompahgre Reservation. This was taken away from them . . . and made a part of the public domain." (at 2, paragraph 2)
LD 184	July 24, 1947	Senate Report No. 749, 80th Cong., 1st Sess.	". . . the former Uncompahgre Indian Reservation." (at 1, third paragraph)

LD 186	Jan. 29, 1948	Leter from the Under Secretary of the Interior	". . . the former Uncompahgre Reservation . . ." (at 4, block quote—second paragraph)
LD 186	Feb. 12, 1948	House Report No. 1372, 80th Cong., 2d Sess.	". . . the former Uncompahgre Reservation . . ." (at 14, block quote—second paragraph)
LD 187	Mar. 11, 1948	Act, 62 Stat. 72	". . . the former Uncompahgre Indian Reservation." (at 77, Sec. 2)